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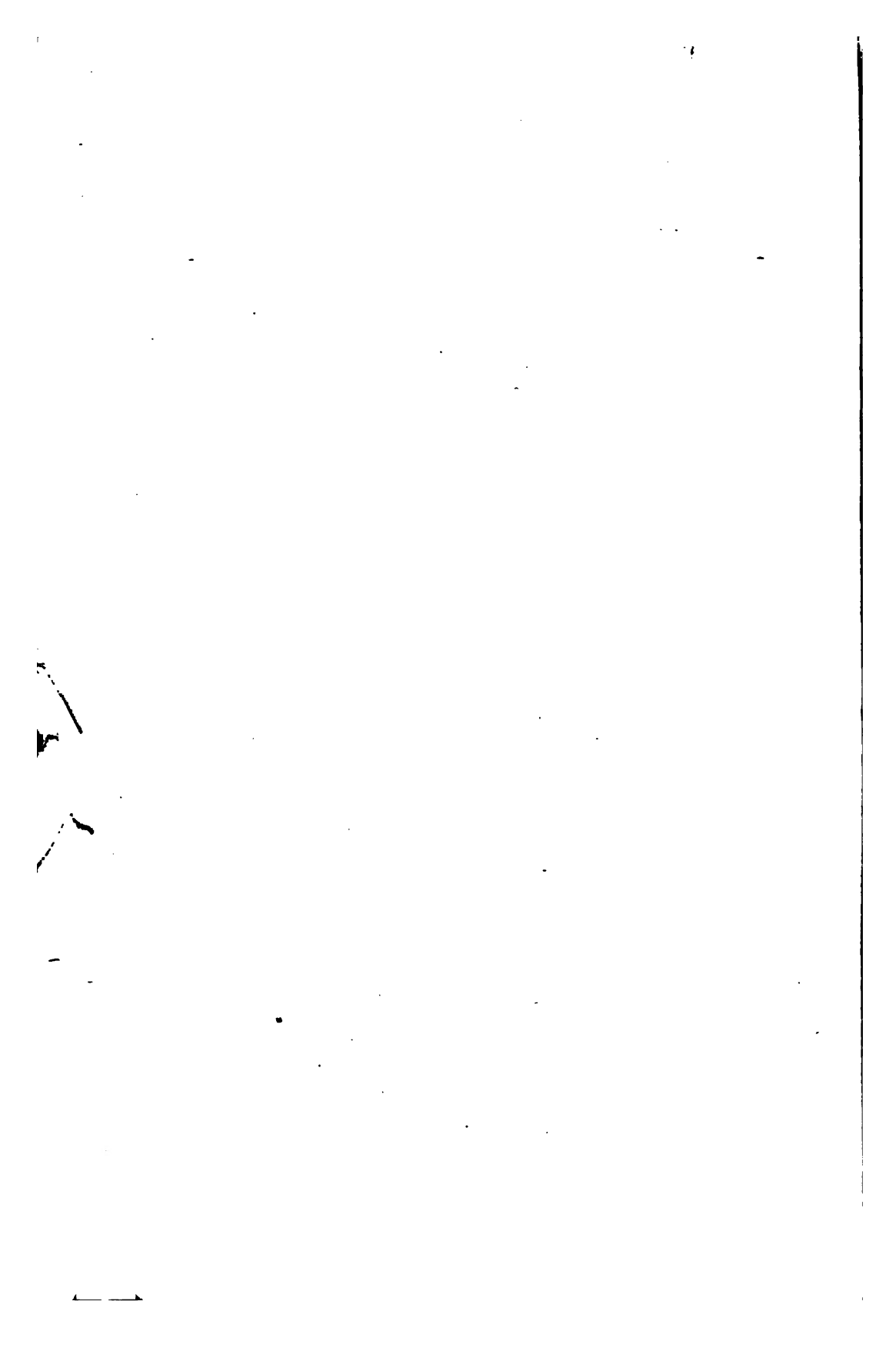
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SEVENTEENTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners

OF THE

STATE OF NEW YORK.

FOR THE YEAR 1899.

TRANSMITTED TO THE LEGISLATURE JANUARY 8, 1900.

COMMISSIONERS:
ASHLEY W. COLE, | FRANK M. BAKER,
GEORGE W. DUNN.

VOLUME I.

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STATE OF NEW YORK.

No. 10

IN SENATE,

JANUARY 10, 1900

SEVENTEENTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners on the Rail-
roads of the State.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, }
ALBANY, *January 8, 1900.* }

To the Honorable the Legislature of the State of New York:

Pursuant to the requirements of the Railroad Law, the Board of Railroad Commissioners herewith submits its seventeenth annual report.

JOHN S. KENYON,
Secretary.

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REPORT.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS, {
ALBANY, *January 8, 1900.* }

To the Honorable the Legislature of the State of New York:

Pursuant to the requirements of the Railroad Law, the Board of Railroad Commissioners submits its seventeenth annual report.

General Situation.

From statements of steam surface railroad companies reporting to this State, it appears that the year ending June 30, 1899, has been an unusually prosperous period for them. The increase in gross earnings from operation, as compared with 1898, is about six million of dollars. Under the succeeding title may be found an analysis of compilations of financial results, the figures being taken from the annual reports of the companies. From these figures it will be seen that net earnings from operation and income from other sources than operation have also largely increased. That this prosperous condition has continued and enlarged is shown by a summary (printed hereinafter) of reports of the principal steam railroad companies of the State for the three months ending September 30, 1899, which shows an increase of \$7,361,566.14 in gross earnings, as compared with the reports of the same companies for the corresponding quarter of 1898. Some earnings are included in the 1899 figures which were not included in those for 1898, but these are comparatively small and are explained by foot notes in the table. The increase for three months being as it is largely in excess of the increase of all the companies for the year, may properly be considered

phenomenal. These figures are concrete proof of a fact of common knowledge—the present prosperity of the country. Such gratifying results in railroad operation have been reached notwithstanding the unsettled condition of freight and passenger rates. They have not only inured to the benefit of holders of stock in railroad companies, but have been a benefit to the public in the increased expenditures from earnings for the betterment of roadbeds and equipment. The annual reports of the companies show that they expended from their earnings over \$900,000 more in 1899 than in 1898 for the maintenance of way and structures, and over \$750,000 more than in 1898 in the maintenance of equipment. It was, of course, to be expected that in the existing prosperity of the country railroad earnings would be largely increased, and, perhaps, there should be but little comment made when this expectation has been fulfilled, but, in view of the competition existing among the companies and among the several ports of export of the country, it is worthy of note that the companies operating in this State seem to have kept pace with their rivals, in the securing of the increased business.

The discussion of the question of the legalization by Congress of “pooling,” or some other method of securing stable rates on interstate commerce, still continues. The result cannot be foreshadowed, but, as this Board has said many times before, it would seem that a “pooling” law which would secure stable rates, with a minimum of injustice to individuals, is desirable. At the time of writing this report action has been taken by the trunk lines looking toward the advancement of freight rates to and from the west. It is claimed by the companies that they are fairly entitled to receive more return than they have been receiving for moving, at least, certain articles of freight. The matter has been brought to the attention of the Interstate Commerce Commission and is being considered by it at the time this report is written.

For the year ending June 30, 1891, (considered a prosperous period) the gross earnings from operation of steam railroads reporting to this State were, in round numbers, \$169,000,000. The

gross earnings of practically the same railroads (the only large earnings included in 1899 which were not included in 1891 being those of the Lehigh Valley Railroad Company), for the year ending June 30, 1899, were, in round numbers, \$220,000,000. Thus it will be seen that in 1899 the gross earnings were, in round numbers, \$51,000,000 more than in 1891.

In this connection, it may also be said that the returns to the Interstate Commerce Commission show that for the year ending June 30, 1899, there is a gain in gross earnings by the steam railroads of the country of, approximately, \$60,000,000 over 1898. The gain, during the same period, by companies reporting to this State, was, approximately, one-tenth of this.

Such a state of prosperity in railroad business may lead to the inception of enterprises for the construction of new railroads not needed by the community, and which apparently are foredoomed to failure. In other years it was only necessary in such times as these for a few persons to incorporate a company to build a railroad (securing the right to build, merely by filing articles of association) and, with little reference to the public necessity or convenience to be served or to the amount of business that the proposed railroad could obtain, it was not always difficult to secure the necessary funds for its building. The result, in many cases, was the loss of large sums of money by the investing public through the failure of the railroad, and, in many instances, an increased burden on the fare and freight rate paying public through the acquisition of the new railroad by an existing railroad, whose facilities had been and were abundantly able to accommodate the public. Since 1892, however, the position of the State in this respect has changed, and a new railroad cannot now be built unless this Board certifies that public convenience and a necessity require its construction. The rights of the projectors of these new enterprises are fully secured by provisions allowing appeal to the courts from adverse decisions of the Board.

During the year two commissions have been at work upon the question of the part that the State canals are to play in the

future transportation situation—one confining itself alone to the canal question, and the other inquiring into the entire subject of the continuance of New York city as the chief port of the country, including the question of transportation by canal. As stated last year, the importance of this matter is scarcely second to any which must be considered in the administration of State affairs. The total number of tons of eastbound freight carried on all the canals of the State during the season of navigation of 1898 was 2,314,050; during 1899, 2,425,292, an increase of 111,242 tons. The comparative figures for 1897 and 1898 on eastbound freight showed a decrease in 1898 of 134,311 tons. The total number of tons of westbound freight in 1898 was 1,046,013; in 1899, 1,260,759, an increase of 214,746. The comparative figures of 1897 and 1898 on westbound freight showed a decrease in 1898 of 123,430 tons. The total number of tons carried on the Erie canal, in both directions, in 1899 was 2,419,084. The designations "eastbound" and "westbound" include what in some instances might be considered northbound and southbound.

Perhaps the most significant feature of the general railroad situation is the tendency to consolidation of large systems which have heretofore been independently operated. What the result of this will be cannot be foretold, but if the interests of the public are considered by railroad managers to be correlative with the interests of the companies, the result should not be harmful, at least, to the State. However this may be, the State may regulate its corporate creatures and conserve the interests of its people whether its decrees are issued to such creatures while separated or after they are combined.

Few complaints have been made to the Board during the year as to freight rates. Reports of such as have been received, with the action taken, will be found in this volume.

During the year, the Philadelphia, Reading and New England Railroad Company was reorganized as the Central New England Railroad Company. The South Vandalia and State Line Railroad has been abandoned. A new company, known as the Chat-ham and Lebanon Valley Railroad Company, has been organized

to construct and operate over the old line of the Lebanon Springs Railroad. The Dansville and Mount Morris, and the Poughkeepsie and Eastern Railroads are still in the hands of receivers. The Little Falls and Dolgeville Railroad is in the hands of a receiver. The Fall Brook, and the Syracuse, Geneva and Corning Railroads have been leased to the New York Central and Hudson River Railroad Company.

Elevated and street surface railroad matters are treated in this report under the titles "Elevated Railroads" and "Street Surface Railroads."

Summary of Business for the Year of Steam Surface Railroads.

The gross earnings of surface steam railroads reporting to this Board, for the year ending June 30, 1899, are \$5,977,508.39 in excess of the gross earnings for the year ending June 30, 1898; the operating expenses are \$2,855,613.34 in excess of the operating expenses for the year ending June 30, 1898, making the net earnings from operation \$3,121,895.05 in excess of the net earnings from operation in 1898. The income from other sources was \$2,034,990.89 in excess of 1898. The companies paid in taxes \$506,051.74 more than in 1898, and declared dividends \$534,692.90 in excess of those declared in 1898. Capital stock increased \$8,977,400 over that of 1898; funded debt increased \$11,985,383.01 over 1898. The percentage of dividends to capital stock was 2.43 as compared with 2.39 in 1898. The average freight earnings per ton per mile decreased .032 cents. The average freight expenses per ton per mile decreased .027 cents; the average freight profit per ton per mile decreased .005 cents; the average earnings per passenger per mile decreased .03 cents; the average expenses per passenger per mile decreased .02 cents; the average profit per passenger per mile decreased .01 cents.

The reports of steam surface railroad companies for the year ending June 30, 1899, and tables compiled therefrom, will be found in the second volume of this report.

It must be remembered that in the case of such railroads as the

Lake Shore and Michigan Southern, the Erie, the New York, Chicago and St. Louis, the New York, New Haven and Hartford, the Boston and Albany, and others, all the figures reported are total amounts for those companies, including all the business done outside of this state. A few of the final results for the year are given in the following table:

	For year ending June 30, 1898.	For year ending June 30, 1899.
Gross earnings from operation.....	\$214,050,214 51	\$220,027,722 90
Operating expenses.....	145,555,719 71	149,411,333 05
Net earnings from operation.....	67,494,494 80	70,616,389 85
Income from other sources.....	9,021,144 67	11,056,185 56
*Interest paid and accrued.....	83,126,669 18	86,484,810 19
Taxes.....	8,543,587 41	9,049,639 15
Miscellaneous expenses.....	1,938,948 56	1,028,922 88
*Dividends declared.....	18,591,321 25	19,126,014 15
Surplus.....	6,263,728 96	8,061,714 28
Capital stock.....	776,539,404 03	785,516,804 03
Funded debt.....	787,756,643 98	799,742,026 99
Other liabilities.....	71,135,208 33	76,130,042 04
Cost of road and equipment.....	1,343,035,901 71	1,337,536,665 98
Percentage of gross income to cost of road and equipment.....	5.69	6.10
Percentage of net income to capital stock.....	8.20	8.47
Percentage of dividends to capital stock.....	2.39	2.43
Miles of road in New York State, main line.....	8,064 78	8,075 63
Tons of freight carried one mile.....	21,781,544,107	23,437,573,027
Average freight earnings per ton per mile (cents).....	0.665	0.638
Average freight expenses per ton per mile (cents).....	0.428	0.401
Average freight profit per ton per mile (cents).....	0.237	0.232
Passengers carried one mile.....	3,150,135,421	3,291,624,483
Average earnings per passenger per mile (cents).....	2.20	2.17
Average expenses per passenger per mile (cents).....	1.70	1.68
Average profit per passenger per mile (cents).....	0.50	0.49

*Includes respectively interest and dividends paid by lessors from rental received from lessees as follows:

	1898.	1899.
Interest.....	\$8,346,028 90	\$9,371,939 25
Dividends.....	4,044,738 58	4,040,085 66

PERCENTAGES OF SUBDIVISIONS OF OPERATING EXPENSES TO TOTAL
OPERATING EXPENSES, FOR THE YEARS ENDING JUNE 30, 1898,
AND 1899.

	1898.	1899.
Maintenance of way and structures.....	16.79	17.08
Maintenance of equipment.....	18.14	18.29
Conducting transportation.....	61.50	61.08
General expenses.....	3.57	3.55
	100	100

PERCENTAGE OF OPERATING EXPENSES TO GROSS EARNINGS FROM
OPERATION FOR TEN YEARS:

1890	65.84
1891	67.17
1892	66.99
1893	67.05
1894	69.23
1895	68.44
1896	69.52
1897	68.12
1898	68.47
1899	67.91

Quarter Ending September 30, 1899.

A brief summary of the results of the business done by the principal steam railroads of the State during the months of July, August and September, 1899, as compared with the corresponding period in 1898, is here given:

COMPARISON of quarterly reports of principal steam railroads operating in New York State for the three months ending September 30, 1898, and September 30, 1899.

ROAD.	1898.			1899.		
	Gross earnings from operation.	Operating expenses.	Net earnings from operation.	Gross earnings from operation.	Operating expenses.	Net earnings from operation.
Boston and Albany.....	\$2,370,039 44	\$1,496,232 41	\$873,857 03	\$2,618,716 77	\$1,691,438 71	\$927,283 06
Buffalo, Rochester and Pittsburgh.....	1,024,846 72	658,824 17	366,022 55	1,068,086 20	680,607 47	408,078 78
Delaware and Hudson.....	2,212,266 55	1,200,355 14	1,002,911 41	2,433,185 64	1,260,310 57	1,172,825 07
Delaware, Lackawanna and Western.....	2,894,675 64	1,704,551 44	1,190,124 20	2,831,325 59	835,100 11	1,486,225 48
Elmira and Lake Ontario.....	167,202 62	164,190 48	3,012 14	206,573 77	194,575 46	13,998 31
Elmira and Williamsport.....	216,102 31	196,121 62	23,980 69	304,589 25	238,350 74	66,238 51
Erie.....	7,806,080 14	6,122,262 40	2,683,877 74	9,357,519 04	6,207,415 85	3,150,103 19
Fail Brook.....	138,761 70	68,452 16	70,309 54	2,084,403 32	1,435,209 18	649,194 14
Pittsburg.....	1,916,513 81	1,211,267 95	705,245 86	6,162,171 68	4,119,148 90	2,042,968 78
Lake Shore.....	5,091,369 13	3,272,428 96	1,818,940 17	1,764,473 96	1,598,452 68	176,020 28
Lehigh Valley.....	1,628,478 13	994,780 43	633,697 69	1,695,542 32	954,679 78	640,863 54
Long Island.....	1,726,684 54	977,865 28	748,819 26	1,695,542 32	954,679 78	640,863 54
New Jersey and New York.....	83,678 87	61,755 80	21,922 57	94,432 61	55,306 25	39,114 36
New York Central and Hudson River.....	16,945,392 77	7,018,182 45	9,927,210 32	13,766,168 72	8,471,578 43	5,294,590 29
New York, Chicago and St. Louis.....	1,581,741 22	1,260,432 64	321,308 58	1,791,504 06	1,326,979 29	464,514 77
New York, New Haven and Hartford.....	9,502,348 95	5,888,840 25	3,613,508 70	10,693,981 06	6,338,254 83	4,355,726 23
New York, Ontario and Western.....	1,089,379 00	713,085 00	376,294 00	1,385,912 00	827,868 00	558,044 00
Ogdensburg and Lake Champlain.....	291,217 78	145,157 17	146,060 61	183,089 82	131,594 25	51,445 57
Staten Island Rapid Transit.....	176,230 10	100,607 81	75,622 29	155,245 18	89,326 24	65,918 94
Syracuse, Binghamton and New York.....	248,007 48	131,216 71	116,790 77	241,047 87	96,220 55	144,827 33
Syracuse, Geneva and Corning.....	142,901 15	99,716 16	43,184 99	.....	.....	.....
Western New York and Pennsylvania.....	846,896 42	604,559 38	242,337 04	1,099,337 74	637,153 33	462,179 41
	\$51,953,263 45	\$33,099,125 31	\$18,854,108 15	\$59,314,829 60	\$37,219,570 62	\$22,095,258 98

SUMMARY.

	1898.	1899.
Gross earnings from operation.....	\$51,953,263 45	\$59,314,829 60
Operating expenses.....	33,099,125 31	37,219,570 62
Net earnings from operation.....	\$18,854,108 15	\$22,095,258 98
Increase in earnings from operation, 1899.....		\$7,241,120 83
Increase in operating expenses, 1899.....		4,120,445 31
Increase in net earnings, 1899.....		\$3,241,120 83

* Includes only roads in this State.

† Included in New York Central and Hudson River in 1899.

‡ Includes, in 1899, operations of Beech Creek, Fall Brook, Pine Creek, Syracuse, Geneva and Corning and Wallkill Valley roads; these were not included in 1898.

§ Amounts here shown for 1898 quarter differ from amounts printed in report for 1898 because this company filed an amended report (after the Board's report for 1898 was printed) which did not include, as did the first report mentioned, the operations of their boat lines. The amended amounts are here used for comparisons, as the 1899 report does not include operations of boat lines.

COMPARISON of quarterly reports of principal steam railroads operating in New York State for the three months ending September 30, 1898, and September 30, 1899.

"d" denotes deficiency.

ROAD.	1898			1899.		
	Total income.	Total expenses.	Net income.	Total income.	Total expenses.	Net income.
Boston and Albany	\$2,370,089 44	\$1,649,575 51	\$720,513 93	\$2,618,718 77	\$1,909,625 43	\$709,093 34
Buffalo, Rochester and Pittsburgh	1,020,244 65	902,201 57	128,043 08	1,088,135 53	927,088 28	161,047 25
Delaware and Hudson *	2,312,266 55	1,917,831 09	294,435 46	2,433,135 64	1,952,933 88	480,201 76
Delaware, Lackawanna and Western *	2,824,675 64	1,704,551 44	1,120,124 20	2,921,825 59	1,444,108 66	877,721 93
Elmira and Lake Ontario.	187,202 62	174,670 73	d	208,535 57	205,353 57	3,220 20
Elmira and Williamsport	219,102 31	237,145 07	d	304,589 25	281,813 50	22,775 75
Erie	7,841,762 89	7,307,964 10	533,798 79	9,384,507 49	8,398,002 82	986,504 67
Fall Brook †	179,255 71	89,250 23	90,005 48	2,112,843 93	1,807,515 04	305,328 89
Fitchburg	1,986,136 60	1,601,550 76	384,585 84	6,290,482 92	5,102,513 74	1,187,968 78
Lake Shore	5,181,044 96	4,247,104 79	933,940 17	6,290,482 92	5,102,513 74	d
Lehigh Valley *	1,628,478 12	1,283,893 94	344,584 18	1,764,472 96	1,860,727 68	98,745 28
Long Island.	1,790,028 94	1,277,281 65	512,747 29	1,863,016 83	1,300,534 41	562,482 42
New Jersey and New York	83,083 36	76,738 83	6,344 53	94,421 74	70,175 56	24,246 18
New York Central and Hudson River ‡	12,485,364 84	10,931,757 91	1,553,606 93	15,374,619 92	12,716,249 02	2,658,370 90
New York, Chicago and St. Louis	1,583,293 12	1,580,831 70	2,461 42	1,792,847 78	1,628,790 73	164,057 05
New York, New Haven and Hartford	9,616,930 27	7,819,714 81	1,797,215 46	10,734,972 96	8,298,413 36	2,436,560 60
New York, Ontario and Western	1,110,719 00	845,901 00	264,818 00	1,455,845 00	1,116,115 00	339,730 00
Orleansburg and Lake Champlain.	202,732 35	153,317 37	49,415 00	183,838 52	168,612 19	15,226 33
Staten Island Rapid Transit	176,230 10	187,631 69	d	185,245 18	151,881 38	3,363 80
Syracuse, England and New York	248,067 48	176,121 48	71,945 79	241,047 87	141,469 12	99,578 75
Syracuse, Geneva and Corning †	182,901 15	152,822 77	30,078 38	241,047 87	141,469 12	99,578 75
Western New York and Pennsylvania	879,758 49	885,516 27	44,237 22	1,070,927 88	917,188 65	153,739 23
Total	\$53,915,325 59	\$45,232,534 63	\$8,682,790 96	\$61,218,567 13	\$50,387,106 07	\$10,831,461 06

SUMMARY.		
Income for all sources.....	Quarter ending Sept. 30, 1899.	Quarter ending Sept. 30, 1898.
Total expenditures.....	\$53,915,325 59	\$61,218,567 13
	45,232,534 63	50,387,106 07
Net income	\$8,682,790 96	\$10,831,461 06
Increase in income from all sources, 1899	\$7,208,241 54	
Increase in total expenses, 1899	6,153,671 44	
Increase in net income, 1899	\$2,144,670 10	

SUMMARY.

	Quarter ending Sept. 30, 1898.	Quarter ending Sept. 30, 1899.
Income for all sources.....	\$53,915,325 59	\$61,218,567 13
Total expenditures.....	45,232,534 63	50,387,106 07
Net income.....	\$8,682,790 96	\$10,831,461 06
Increase in income from all sources, 1899.....		\$7,298,241 54
Increase in total expenses, 1899.....		5,153,671 44
Increase in net income, 1899.....		\$2,144,670 10

* Includes only roads in this State.

† Included in New York Central and Hudson River in 1899.

‡ Includes, in 1899, operations of Beech Creek, Fall Brook, Pine Creek, Syracuse, Geneva and Corning and Wallkill Valley roads; these were not included in 1898.

§ Amounts here shown for 1898 quarter differ from amounts printed in report for 1898 because this company filed an amended report (after the Board's report for 1898 was printed) which did not include, as did the first report mentioned, the operations of their boat lines. The amended amounts are here used for comparisons, as the 1899 report does not include operations of boat lines.

Accidents on Steam Surface Railroads.

The total number of accidents on steam surface railroads, in which persons were killed or injured, during the year ending June 30, 1899, was 2,030; 704 persons were killed and 1,326 injured. For the year ending June 30, 1898, the aggregate was 2,207; 700 killed and 1,507 injured. Four more persons were killed in 1899 than in 1898, but in 1898 181 more persons were injured than in 1899. During the year, 9 passengers were killed and 120 injured, as compared with 27 killed and 117 injured in 1898. In 1898, 18 of the passengers killed met their deaths in the Garrisons accident, on the New York Central and Hudson River Railroad, an unusually disastrous accident. This year 2 passengers were killed by falling from trains, 5 while getting on or off trains, and 2 in derailments. Nine passengers were injured by falling from trains, 22 while getting on or off trains in motion, 7 by striking obstructions while on moving trains, 4 by derailment due to misplaced switch, 47 by derailment due to excessive speed around curve, 1 from a derailment from undetermined causes, 3 in butting collisions, 5 in rear collisions caused by misplaced switch, 9 in rear collisions through neglect of orders or signals, 5 in rear collisions through the parting of trains, and 8 from other causes. A large proportion of these injuries were not serious. An inspection of the tables of accidents during the past five years shows that the number of passengers killed and the number injured this year is less than the yearly average for the five years, notwithstanding a large increase in the number carried. The number of employees killed and injured during 1899 shows an increase over the average number of employees killed and injured yearly during the five years. The number killed and injured in each year for five years, is shown by the table following:

YEAR.	PASSENGERS.		YEAR.	EMPLOYEES.	
	Killed.	Injured.		Killed.	Injured.
1895.....	17	110	1895.....	181	630
1896.....	18	106	1896.....	197	917
1897.....	15	123	1897.....	142	857
1898.....	27	117	1898.....	171	947
1899.....	9	120	1899.....	203	853
Total.....	86	675	Total.....	894	4,204

The average for the five years is 17 passengers killed and 135 injured, yearly. This exceeds the number of passengers killed last year by 8, the number injured by 15. The average for the five years is 179 employees killed and 841 employees injured, yearly. The number of employees killed during 1899 exceeds this average by 24. The number injured exceeds this average by 12. The number of passengers carried in the State of New York by the steam surface railroads during the year was 68,720,642. One passenger was killed for each 7,635,627 carried, and one injured for each 572,672 carried.

During the year, 203 employees were killed and 853 injured; the figures in 1898 were, 171 killed and 947 injured. In 1899, 25 were killed and 127 injured through falling from trains, engines or cars; from this cause 28 were killed and 139 injured in 1898. In 1899, 9 were killed and 67 injured through getting on or off trains in motion; in 1898, 6 were killed and 78 injured from this cause. In 1899, 9 were killed and 44 injured through striking low bridges, tunnels, etc.; 5 were killed and 32 injured from these causes in 1898. In 1899, 26 were killed and 269 injured while coupling or uncoupling cars; 14 were killed and 277 injured from this cause in 1898. In 1899, 97 were killed and 79 injured from walking or being on track; 73 were killed and 55 injured from this cause in 1898. In 1899, 7 were found dead on track; in 1898, 3. In 1899, 1 employee was injured at a highway crossing of a railroad; 4 were killed and 3 injured at such crossings in 1898. In 1899, 3 employees were killed and 9 injured through catching foot in frogs or between rails; in 1898, 8 were killed and 7 injured in this way. In 1899, 3 employees were killed and 3 injured through derailments due to misplaced switch; in 1898, 1 was injured in this way. In 1899, 2 employees were injured in derailment through broken wheel; in 1898, 3 were injured in this way. In 1899, 1 employee was injured through derailment due to defective track; in 1898, 2 were killed and 5 injured in similar derailments. In 1899, 3 employees were killed and 2 injured through derailment caused by obstruction on track; none was killed or injured from this cause in 1898. In 1899, 1 employee was killed and

9 injured in derailments the causes of which were undetermined; 5 were killed and 8 injured in similar derailments in 1898. In 1898, 1 employee was killed and 2 were injured in butting collisions caused by misplaced switch; there were no casualties to employees from this cause in 1899. In 1899, 3 employees were killed and 3 were injured in butting collisions caused by mistake or neglect of orders or signals; in 1898, 6 were killed and 19 injured in similar collisions. In 1899, 1 employee was killed and 1 injured through trains colliding with hand cars; in 1898, 2 were killed from this cause. In 1899, 2 employees were injured in butting collisions, the causes of which were unexplained; in 1898, 2 were killed in similar collisions. In 1899, 1 employee was injured in a rear collision caused by a misplaced switch; in 1898, 1 was also injured. In 1899, 4 employees were killed and 33 injured in rear collisions, caused by mistake or neglect of orders or signals; in 1898, 1 was killed and 13 injured in similar accidents. In 1899, 2 employees were killed and 13 injured in rear collisions caused by parting of trains; in 1898, 3 were killed and 5 injured from this cause. In 1899, 2 employees were killed and 6 injured in rear collisions, the causes of which were unexplained; in 1898, 6 were injured in similar collisions. In 1899, 1 employee was killed and 2 were injured through the failure of a trestle on a Y connection of the New York Central and Hudson River Railroad, near Herkimer; there were no deaths or injuries to employees from failure of bridges or trestles, in 1898. In 1899, 1 employee was killed and 2 injured in locomotive explosions; in 1898, 3 were killed and 1 injured from this cause. In 1899, 2 employees were killed and 59 injured in other train accidents; in 1898, 2 were killed and 68 injured. In 1899, 4 employees were killed and 118 injured in various ways, not enumerated here; as compared with 3 killed and 224 injured in such ways in 1898.

In the compiling of accidents in this office, persons who are killed or injured on steam surface railroads, who are not either passengers or employees, are classed as "others." The total number of these killed in 1899 was 492, total injured 353; the number killed in 1898 was 502, injured 443. It is always the case that the

greater number of these accidents (due to one cause) are to persons walking on the tracks of railroads. This year, the number of such persons killed was 206, the number injured 108; in 1898, the number of such persons killed was 226, injured 129. In 1899, 65 "others" were killed and 124 injured through falling from trains, engines or cars, or striking low bridges or obstructions; in 1898, 65 were killed and 174 injured from these causes. In 1899, 97 "others" were found dead on track; and 105 in 1898. The Board has repeatedly called attention to the great loss of life through trespassing on railroad tracks, but it would seem that with the present development of public opinion on the question, these accidents will inevitably continue. It is to be hoped and expected, that, in the years to come, public opinion will sustain the prosecution and punishment of persons trespassing on railroad tracks, as it does persons trespassing on individual property.

Fifteen "others" were killed and 23 injured through collisions at grade crossings of railroads in 1899. The deaths and twenty of the injuries occurred at a crossing of the Troy City Railway Company's track and the railroad operated by the Delaware and Hudson Company, in Cohoes, on Labor day, 1898. These are not included in the statistics as to accidents at grade crossings.

In 1899, 101 persons were killed and 80 injured at highway grade crossings of railroads, as compared with 102 killed and 113 injured in 1898. Of these, in 1899, 24 were killed and 25 injured at crossings protected with gates or flagmen, as compared with 34 killed and 36 injured at protected crossings in 1898. The operation of the Grade Crossing Law must diminish the number of these accidents.

Reports of investigations and inquiries as to many of the accidents referred to above will be found in this volume under the titles of "Accidents" and "Accident Inquiries." Reports of accidents on steam surface railroads, by telegraph and on a form of blank, are made to the Board in conformity with section 159 of the Railroad Law. The following is a table of the accidents, classified as to their causes. The classifications are those adopted by this Board from a statement of the circumstances surrounding each case:

TABLE OF ACCIDENTS on steam surface railroads reported to the Board of Railroad Commissioners, classified as to cause, for the year ending June 30, 1899.

CAUSE OF ACCIDENT.	PASSENGERS.				EMPLOYEES.				OTHERS.				TOTAL.	
	1899.		1898.		1899.		1898.		1899.		1898.		1899.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Fall from train, engine or car.....	3	9	5	5	25	127	28	139	26	49	48	163	67	193
Collision with other trains.....	5	23	3	41	9	67	6	78	96	120	54	185	45	339
Striking low bridges, tunnels, etc.....	2	3	2	2	9	44	5	53	3	5	11	48	7	59
Passengers putting head or arms out of windows, or missiles thrown in windows, etc.....	5	5	4	26	269	14	277	1	226	129	27	269	14	278
Collapsing or uncoupling cars.....
Walking or being on track.....	8	1	97	79	206	108	226	303	167	108	302
Found dead on track.....	7	.....	8	97	105	.....	104	.....	.....	186
Crossing track at highways.....
Not protected with gates or flagmen.....
Catching foot in frog or between rails.....
Derailment by misplaced switch.....
Derailment by broken rail.....
Derailment by loose ties.....
Derailment by defective track.....
Derailment by obstruction on track.....
Derailment from causes unknown.....
Collisions, butting by misplaced switch.....
Collisions, butting by mistake or neglect of orders or signals.....
Collisions, butting with a hand car.....
Collisions, butting by causes unexplained.....
Collisions, rear by misplaced switch.....
Collisions, rear by mistake or neglect of orders or signals.....
Collisions, rear by parting of trains.....
Collisions, rear from unknown causes.....
Collisions at grade crossings of railroads.....
Collisions at grade crossings of roads.....
Failure of bridge, cattle-guard or trestle.....
Accidental explosions.....
Other accidents.....
Other causes.....
Casualties not caused by trains, engines or cars.....
From causes beyond their own control.....
By their own misconduct or incitation.....
Reported as caused by intoxication.....
Indeterminable as to want of caution or otherwise.....
Total	9	120	27	117	203	853	171	947	492	853	443	704	1,326	1,507

General Business of the Board.

The matters upon which this Board is called to pass continue to increase in number. To illustrate this a comparison is here made between the number of complaints, etc., passed upon by the Board this year and last year, although the figures this year are for a slightly longer period than those of last year. Complaints passed upon during 1898 numbered 43; during 1899, 68. Complaints and applications as to railroad stations, in 1898, 4; in 1899, 15. Crossings, in 1898, 65; in 1899, 107. Applications as to highway crossing signs of railroads were, none in 1898; in 1899, 26. Motive power applications, in 1898, 29; in 1899, 5. Applications for approval of increase of capital stock, in 1898, 10; in 1899, 14. Applications for consent to the issue of mortgages, in 1898, none; in 1899, 16. Applications under section 59 of the Railroad Law (as to the building of new railroads), in 1898, 22; in 1899, 16. Applications as to abandonment of part of street surface railroad route, in 1898, none; in 1899, 1. Applications as to change of name, in 1898, 2; in 1899, 1. Applications as to change of gauge of steam railroads, in 1898, none; in 1899, 2. Applications as to cooking stoves in passenger cars, in 1898, none; in 1899, 1. Applications as to wrecking tools in passenger cars, in 1898, 2; in 1899, 2. The totals of these matters are, 1898, 177; 1899, 274. There were pending before the Board at the time of making the report for 1898, 58 matters; there are now pending before the Board 89 matters. Reports and decisions of the Board made on the various matters during 1899 will be found in this volume. The minutes of the hearings of the Board are published in this volume. In addition to the business, a record of which is shown in this volume, many inquiries of different kinds have been received and answered, and in the preparation of the second volume of the report, which contains the annual reports of railroad companies and statistical tables compiled therefrom, considerable correspondence with the companies has been necessary.

In July, 1897, the Board received an application from the Auburn and Western Railway Company (proposing to construct

an electric railroad between Auburn and Seneca Falls), under section 59 of the Railroad Law, for a certificate that public convenience and a necessity required the construction of its railroad. The certificate applied for was refused. The company appealed to the Appellate Division of the Supreme Court, Fourth Department, and that court during the past year sustained the decision of the Board.

In January, 1898, the Board consented that the Ulster and Delaware Railroad Company abandon its Fair street passenger station, in the city of Kingston. An appeal was taken, by persons interested, to the Appellate Division of the Supreme Court, Third Department, which court sustained the decision of the Board. A further appeal was taken to the Court of Appeals, which court during the past year affirmed the decision of the Appellate Division.

The Board in February, 1898, refused the application of the Riverhead, Quogue and Southampton Railroad Company (proposing to construct an electric railroad on Long Island) for a certificate that public convenience and a necessity required the construction of its railroad. The company appealed to the Appellate Division of the Supreme Court, Second Department, which court during the past year sustained the decision of the Board.

In August, 1898, the Board granted the application of the Goshen Railroad Company (proposing to construct a steam railroad) for a certificate that public convenience and a necessity required the construction of its railroad. The action of the Board in this matter was reviewed by the Appellate Division of the Supreme Court, Third Department, and reversed. An appeal was taken to the Court of Appeals, which court during the past year sustained the opinion of the Appellate Division.

In September, 1898, the Board granted the application of the New York and North Shore Railway Company (proposing to construct an electric railway on Long Island) for a certificate that public convenience and a necessity required the construction of its railroad. The action of the Board in this matter was

reviewed by the Appellate Division of the Supreme Court, Third Department, and sustained. An appeal was taken to the Court of Appeals, which court during the past year affirmed the decision of the Appellate Division.

In August, 1899, the Board refused the application of the Babylon and North Shore Railroad Company (proposing to operate a railroad by Kinetic stored steam motor) for a certificate that public convenience and a necessity required the construction of its railroad. The determination will be found in this volume. The company has requested the Board to certify a copy of the maps and papers in the case to the Appellate Division of the Supreme Court, Second Department.

On August 17, 1898, the village of Andover petitioned this Board to determine the manner in which a highway in said village should cross the Erie Railroad. The village desired that the crossing should be made at grade. The Board determined that the crossing should be made above grade. The determination will be found in this volume. The village has served the Board with a notice of appeal, under the statute. The notice of appeal has been referred to the Attorney-General.

On February 25, 1899, the town board of the town of Schaghticoke, Rensselaer county, petitioned the Board to determine that a highway crossing in said town, near Melrose, should be carried underneath the Fitchburg Railroad. After proceeding as required by the statute, the Board determined that the crossing should be carried underneath the railroad. The determination will be found in this volume. The railroad company has served the Board with notice of appeal, under the statute. The notice of appeal has been referred to the Attorney-General.

On May 9, 1899, the town board of the town of Dayton, Cattaraugus county, petitioned this Board to determine the manner in which a highway in said town should cross the Erie Railroad. The town desired that the crossing should be made at grade. The Board determined that the crossing should be made above grade. The town has served the Board with a notice of appeal, under the statute. The notice of appeal has been referred to the Attorney-General.

The Grade Crossing Law.

Work under the Grade Crossing Law has been prosecuted diligently during the past year. The law provides as follows: 1. That no steam railroad hereafter constructed shall cross highways at grade, without the consent of this Board. 2. That no highway shall hereafter be constructed across a steam railroad except in a manner to be determined by this Board. 3. A method for abolishing existing grade crossings. The expense of building new railroads over or under the grade of highways must be borne by the company. The expense of building new highway crossings over or under the grade of steam railroads must be borne, half by the municipal corporation and half by the railroad company. The expense of abolishing existing grade crossings must be borne, fifty per cent. by the railroad company, twenty-five per cent. by the State, and twenty-five per cent. by the municipal corporation.

So far as the crossing of highways by new steam railroads is concerned, the Board has determined, in but few instances, that this may be done, and in those, the reasons why the railroad should be permitted to cross at grade were so patent that the spirit of the law was not violated.

In this volume, and in the first volume of the report for 1898, will be found determinations as to the construction of new crossings of railroads by streets and highways. In most instances, the Board has determined that the new crossing shall be either above or below the grade of the steam railroad. The Board has endeavored to follow the spirit as well as the letter of the law in such cases.

The importance of these two provisions is apparent. The law has accomplished prevention as well as cure. Its most important provision, however, is a method of abolishing existing grade crossings, and the Board now proceeds to a statement of what has been accomplished in this direction. Following will be found a statement of grade crossings which the Board has determined shall be changed to over or under the grade of railroads, or discontinued. At the beginning of the paragraph is the name of the petitioner.

1. VILLAGE OF SHORTSVILLE, ONTARIO COUNTY.—This was a petition for a determination by the Board that East avenue, in said village, should be carried under the Auburn branch of the New York Central and Hudson River Railroad. The Board determined this application in the affirmative, and the undercrossing is now in existence and used.

2. TOWN BOARD OF THE TOWN OF SCHODACK, RENSSELAER COUNTY.—This was a petition for a determination by the Board that three grade crossings of the Boston and Albany Railroad, at Brookview, in said town, should be abolished. This application was determined in the affirmative, and the work has been completed. When the petition was made, the highways known as the Boom Barrack road, Pucker street and Brookview avenue crossed the railroad at grade at points near together. Under the determination of the Board, the crossings at Pucker street and the Boom Barrack road are closed and discontinued, and the travel on these crossings diverted to Brookview avenue by the construction of connecting pieces of highway, Brookview avenue being carried across the railroad, above grade, by means of a substantial and commodious iron bridge.

3. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.—This petition was for a determination that two grade crossings of the Mohawk and Malone branch of the petitioner's railroad, by the Blue Pond road highway, near the Lake Clear station on said railroad, should be closed and discontinued, and that a new piece of highway should be constructed, continuing the Blue Pond road so that it should not cross the railroad. This petition was granted. The work has been accomplished and the two crossings are closed.

4. TOWN BOARD OF THE TOWN OF MADISON, IN THE COUNTY OF MADISON.—This petition asked the Board to determine that two grade crossings of the New York, Ontario and Western Railway, near the Solsville station on said railway, should be closed and discontinued, through the construction of a connecting piece of highway, which would render unnecessary the crossing of the railroad at these two points. The Board determined that the connect-

ing piece of highway should be constructed, with the result that three, instead of two, grade crossings have been abolished, and the greater part of the travel has been diverted from a fourth crossing, which it was found impracticable at this time to close.

5. TOWN OF LIBERTY, SULLIVAN COUNTY.—This petition was for a determination that two grade crossings of the New York, Ontario and Western Railway, known as Francisco's and Hardenbergh's crossings, should be closed and discontinued and the travel thereon diverted to a new overhead crossing to be located between the two crossings named. The Board determined that this should be done, and proceedings are now pending for the acquirement of the necessary land for connecting pieces of highway. When the work is completed, Francisco's and Hardenbergh's crossings will be closed and the travel accommodated by an overhead bridge situated between the two.

6. VILLAGE OF ST. JOHNSVILLE.—This petition was for a determination that the Bridge street crossing of nine tracks of the New York Central and Hudson River Railroad, in said village, should be changed from grade and carried over the railroad by means of a bridge. The Board determined that this should be done, and at the time of writing this report the bridge is nearing completion.

7. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.—This was a petition for a determination by the Board that a highway crossing of the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), known as the Lower Meekerville road crossing, in the town of Forestport, Oneida county, should be so altered in location that it should not cross the railway, but should connect with the highway known as the Upper Meekerville road by the construction of a connecting piece of highway on the easterly side of the railway. The Board so determined. The necessary land for the new piece of highway has been secured, but the actual work of constructing it has not yet been begun.

8. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.—This was a petition for a determination by the Board that a highway crossing in the town of Glenville, county of

Schenectady, about four hundred feet west of a protected crossing known as Rector's crossing, should be closed and discontinued, and the travel thereon diverted to Rector's crossing by the construction of a connecting piece of highway. The Board so determined. The work has been completed, and the crossing closed, the travel now crossing the railroad at Rector's crossing, which is protected by gates.

9. TOWN OF GUILFORD, CHENANGO COUNTY.—This was a petition that two grade crossings of the New York, Ontario and Western Railway, known as the Root's and the Milk Station crossings, should be closed and discontinued, the travel thereon to be diverted by the construction of a bridge and connecting pieces of highway, so that it should not cross the railroad. The Board so determined, and the grading and necessary masonry involved in this improvement have been completed and the bridge will shortly be erected.

10. THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY.—This was a petition for a determination by the Board that the grade crossing of the Buffalo, Rochester and Pittsburgh Railway, by a highway known as the Ridge road, in the town of West Seneca, Erie county, should be carried over said railway above grade. The Board so determined. Involved in this determination is the cutting down of the roadbed of the railway. The work has not been begun at the time of writing this report.

11. TOWN OF RANDOLPH, CATTARAUGUS COUNTY.—This was a petition that the Fifth avenue crossing of the Erie Railroad, in the village of Randolph, should be closed and discontinued, and that the Jamestown street crossing of said railroad should be carried underneath the railroad, and a connecting piece of highway built from Fifth avenue to the proposed Jamestown street undercrossing. The Board so determined, and the work involved in this determination is nearing completion.

12. TOWN OF RANDOLPH, CATTARAUGUS COUNTY.—This was a petition for a determination by the Board that the Ireland road crossing of the Erie Railroad, in the town of Randolph, should be changed from grade and carried underneath the railroad.

The Board has so determined. This work has been commenced and is nearing completion.

13. CITY OF ELMIRA.—This was a petition for a determination by the Board that the Woodlawn avenue crossing of the Erie Railroad, in the city of Elmira, should be changed from grade and carried underneath the railroad. The Board so determined. Involved in this matter was an application also by the city that the Reformatory street crossing of the railroad, adjoining the Woodlawn avenue crossing, should be closed and discontinued, and the travel on Reformatory street diverted, by the construction of a connecting street, to the undercrossing at Woodlawn avenue. The Board also decided this application in the affirmative. The preliminaries for the work at these crossings have been completed and work will be pushed as rapidly as possible.

14. TOWN OF HOLLAND, ERIE COUNTY.—This was a petition for a determination by the Board that a highway crossing of the Western New York and Pennsylvania Railway, by the Crosby road, in the town of Holland, Erie county, should be changed from grade and carried over the railroad above grade. The Board so determined. The work has been completed and the overhead crossing is now in use.

15. THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY.—This was a petition that two highways near the station of said railway known as Hardy's or Pike, in the town of Gainesville, Wyoming county, which crossed at grade, should be closed and discontinued, the highways combined in one and carried over the railroad by means of a bridge. The Board so determined. The grading and masonry work involved in this determination has been completed, and the bridge will be erected in the near future.

16. THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY.—This was a petition for a determination that a highway crossing of said railway, near Mumford station, by a highway known as the Guthrie road, in the town of Wheatland, Monroe county, should be closed and discontinued and the travel diverted to another and safer crossing nearby, by the construction of a

connecting piece of highway. The Board so determined, and is informed that the work will be begun shortly.

17. TOWN BOARD OF THE TOWN OF LEROY, GENESEE COUNTY.—This was a petition for a determination by the Board that a highway crossing of the Buffalo, Rochester and Pittsburgh Railway, by a highway known as the Leroy and Roanoke road, at a point known as Haskin's crossing in said town, should be changed from grade and the highway carried over the railroad. The Board so determined. The grading and masonry work at this crossing is completed and the bridge will be erected in the near future.

18. THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY.—This was a petition for a determination by the Board that four grade crossings of said railway, known as the Gould crossing, Hedges crossing, Underhill crossing and Norcross crossing, in the town of Colden, Erie county, should be closed and discontinued and the travel diverted therefrom by the construction of a piece of highway which would make it unnecessary to cross the railroad at these points. The Board so determined. The work has been completed and the four crossings named closed.

19. TOWN BOARD OF THE TOWN OF CARROLL, COUNTY OF CHAUTAUQUA.—This was a petition for a determination that two grade crossings of the Dunkirk, Allegheny Valley and Pittsburgh Railroad, by a highway known as the Falconer road, in said town, known as the Tracy crossing and the Lawson crossing, should be closed and discontinued, and that a piece of highway should be constructed continuing the Falconer road so that it would not cross the railroad. This petition was granted. The local authorities, however, do not seem to be inclined to proceed in the matter.

20. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.—This was a petition for a determination that the Spencer street and Livingston avenue grade crossings of said railroad in the city of Albany, should be changed from grade and carried underneath the railroad. The Board so determined. The work was undertaken and is progressing diligently.

21. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination by the Board that the crossing of said railroad by a highway known as Division avenue, in the town of Brookhaven, Suffolk county, should be closed and discontinued, the travel thereon to be diverted to another crossing protected by gates, through the construction of a connecting piece of highway. The Board so determined, and proceedings to acquire the necessary land for the new piece of highway are being taken.

22. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination by the Board that a grade crossing of said railroad by a highway known as Smith's road, in the town of Hempstead, Nassau county, should be closed and discontinued, the travel thereon to be diverted to the Hempstead and Babylon turnpike. The Board so determined.

23. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination that the Atlantic avenue grade crossing of said railroad, in Arverne, New York city, should be closed and discontinued, the travel to be diverted to other crossings in the vicinity. The Board so determined.

24. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination that a crossing of said railroad, at a point known as Overton avenue, in the town of Islip, Suffolk county, should be closed and discontinued. This crossing has been made a farm crossing only.

25. **THE NEW YORK AND ROCKAWAY BEACH RAILWAY COMPANY.**—This was a petition for a determination that a crossing of said railway by a highway in ward 2, of the Borough of Queens, New York city, known as Trotting Course Lane, should be changed from grade and the highway carried over the railroad by means of a bridge. The Board so determined.

26. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination that a crossing of said railroad at a point known as Hyde's crossing, in the town of Islip, Suffolk county, should be closed and discontinued. This crossing has been made a farm crossing only.

27. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination that a grade crossing of said railroad by Jones avenue, near the Bellmore station on said railroad, should be closed and discontinued. The Board so determined and the crossing has been closed.

28. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination that a grade crossing of said railroad by a highway known as the Swamp road, in the town of Hempstead, Nassau county, should be closed and discontinued. The Board so determined.

29. **THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY.**—This was a petition that a crossing at grade of said railway by a highway known as the Abbott road, near the Windom station on said railway, Erie county, should be abolished and the highway carried underneath the railway. The Board so determined. Proposals of contractors for doing the work referred to in this determination have been approved by the Board, and the work will be commenced in the near future.

30. **TOWN OF LEICESTER, LIVINGSTON COUNTY.**—This was a petition for a determination that a grade crossing of the Delaware, Lackawanna and Western Railroad by the Mount Morris road highway, in the town of Leicester, Livingston county, should be closed and discontinued, the travel thereon to be diverted to an existing undercrossing. The Board so determined. The work has been completed and the Mount Morris road crossing of the railroad is closed.

31. **CITY OF BINGHAMTON.**—This was a petition for a determination that Bevier street, in said city, should be carried underneath the Syracuse, Binghamton and New York Railroad and the Albany and Susquehanna Railroad. The Board so determined. Work has been commenced at the Syracuse, Binghamton and New York Railroad crossing, and plans for the work at the Albany and Susquehanna Railroad crossing are, at the time of writing this report, before the Board for approval.

32. **THE LONG ISLAND RAILROAD COMPANY.**—This was a petition for a determination that a grade crossing of said railway by

Lafayette place, in the town of Hempstead, Nassau county, should be closed and discontinued. The Board so determined.

33. TOWN OF NEWSTEAD, ERIE COUNTY.—This was a petition for a determination that a grade crossing of the New York Central and Hudson River Railroad, by Buell street, in the town of Newstead, Erie county, should be changed from grade and the street carried over the railroad above grade. The Board so determined. Plans and specifications for doing this work have not yet been received from the company.

34. TOWN OF SCHAGHTICOKE, RENSSELAER COUNTY.—This was a petition for a determination that a grade crossing of the Fitchburg Railroad, at Melrose, in said town, should be changed from grade and carried underneath the railroad. The Board so determined. The company, however, has taken an appeal, and nothing has been done in this matter toward beginning the work.

35. TOWN OF OLEAN, CATTARAUGUS COUNTY.—This was a petition for a determination that a grade crossing of the Western New York and Pennsylvania Railway, in said town, by a highway known as the Hastings crossroad, should be carried over the railroad above grade. The Board so determined, and this work is nearing completion.

36. CITY OF BINGHAMTON.—This was a petition for a determination that Chenango street, in said city, should be carried over the nine tracks of the Erie Railroad and the Delaware, Lackawanna and Western Railroad above grade. The Board so determined, and it is expected that this work will be begun within a short time. This is an exceedingly dangerous crossing.

37. CITY OF COHOES.—This was a petition for a determination that Ontario street, in said city, should be carried over the railroad operated by the Delaware and Hudson Company, at the point where a trolley car was struck by a steam train on Labor day, 1898. The Board so determined, and a plan for the viaduct has been prepared.

38. TOWN OF SOUTHAMPTON, SUFFOLK COUNTY.—This was a petition for a determination that a grade crossing of the Long Island Railroad by a highway known as Butter lane, should be

changed from grade and the highway carried under the railroad. The Board so determined. Plans and specifications for doing the work have been submitted to the Board.

39. THE LONG ISLAND RAILROAD COMPANY.—This was a petition for a determination that a grade crossing of the Long Island Railroad by a highway known as the North Sea road, in the village of Southampton, should be changed from grade and the highway carried underneath the railroad. The Board so determined. Plans and specifications for doing this work have not yet been submitted to the Board.

40. VILLAGE OF ATTICA, WYOMING COUNTY.—This was a petition for a determination that the grade crossing of the Erie Railroad by High street, in said village, should be abolished and the street carried underneath the railroad, another crossing, known as the West Main street crossing, to be closed and discontinued. The Board so determined. Plans and specifications in this matter have not yet been submitted.

41. TOWN OF SMITHTOWN, SUFFOLK COUNTY.—This was a petition for a determination that two grade crossings of the Long Island Railroad, near its King's Park station, should be abolished by changing the location of the highway. The Board so determined. Plans and specifications for doing this work have not yet been submitted.

It will thus be seen that under determinations by this Board 19 grade crossings have been actually abolished, and the work at 25 others has progressed so far that in the very near future they also will be abolished. In the 13 other cases where determinations have been made, and the State is obligated to pay its share of the expense, it is expected that the work will be prosecuted with diligence. The formal determinations in these matters will be found in this volume, with the exception of the first three, which were published in the last report. The public and the railroad companies are alive to the desirability of the elimination of grade crossings, and the Board has 44 applications pending before it to this end. The State's proportion of the cost in cases where determinations have already been made, and in

cases in which it appears likely that determinations will soon be made, will exhaust the appropriations already made by the State.

The Board feels that it is unnecessary to comment at greater length upon this subject. The work accomplished, as outlined above, speaks for itself.

In this report are printed photographs and outline maps showing the progress of the work at many of the crossings above referred to.

Physical Condition of Surface Steam Railroads.

In this volume will be found reports of inspections, made by the official steam railroad inspector of this Board, of about one-half of the steam railroad mileage of the State. Copies of these reports, with the recommendations made by the inspector, have been transmitted to the companies operating the railroads inspected, and in nearly every instance the company has replied that the recommendations of the inspector and the Board, as to improvements in roadbeds, etc., would be complied with. From the reports, it will be seen that the railroads inspected are, generally, in good physical condition. In some instances, the reports show the roads to be in poor condition, but in each of these cases the line of railroad is not a prosperous one. Even here, however, the companies affected have shown willingness to comply with the recommendations of the Board, and have in most instances done so. Through this system of inspection, the Board has been enabled to have corrected many minor and, to some extent, annoying defects in operation, as well as greater ones. The inspector, in addition to his report on the matters which involve safety, reports as to the condition of passenger coaches, stations, etc.

Improvement in passenger equipment continues. The lighting of passenger cars, however, does not seem to have made much progress since last year. The Board, heretofore, has recommended to railroad companies that this matter be given particular attention, and it reiterates such recommendation. A notable advance has been made in the past few years in the

matter of passenger stations and their surroundings. This is commendable and should continue.

The prosperous condition of the companies has led to the ordering of a very large number of locomotives and passenger and freight cars. It is the intention of the New York Central and Hudson River Railroad Company to expend \$15,000,000 for this purpose. This expenditure is to be made from capital stock, and not from earnings. The year has been a prosperous one in railroad business, and the companies seem to have taken advantage of this prosperous condition to order extraordinarily large numbers of freight cars. It may be that during the dull period many freight cars have been kept in service which in other times would have been more quickly discarded, and that part of the new equipment is to replace these, but the extent of the orders is such that it is plain that new equipment, largely in excess of that heretofore required, appears to managers to be necessary for the doing of the business at present existing and to be expected. At the present time all the important lines, if not all railroad companies, have in use all their freight equipment which is usable. It is evident that great advances are being made in the construction of freight cars, and it is significant that many steel cars have been ordered. Freight cars have increased in size and capacity and freight locomotives have increased in weight. What effects these increased weights will have upon the life of rails and bridges is, perhaps, a matter of conjecture, but the companies seem to be alive to the changed conditions in this respect.

The Board again recommends and urges that constant attention be given to the security and good condition of the appliances on freight cars, with which employees have to do.

The annual reports of the companies to this Board, for the year ending June 30, 1899, show a total number of freight cars of 224,494. Of these, 121,661 are reported as equipped with power brakes; 203,107 are reported as equipped with automatic couplers. Applications have been made to the Interstate Commerce Commission by various railroad companies for extension of time

within which to equip with brakes and couplers and an extension of seven months has been granted by that Commission. But four applications have, at the time of writing this report, been made to this Board for extension of time within which to comply with the State laws on these subjects.

The annual reports show that 5,953 passenger cars are operated by the companies reporting.

Complaints, especially from farmers, as to the condition of railroad fences, have been unusually frequent during the year, but the Board has assurances that during the coming season the causes of complaint will be removed.

Some complaints were received during the year as to fires communicated to farm lands from locomotive engines. In one case an especial investigation (a report of which will be found in this volume) of the matter was made by the Board. The Board recognizes that it seems to be impossible to absolutely prevent the setting of fires in all cases, but it again urges upon companies that they take all reasonable steps necessary to guard against the infliction of this annoyance to farmers and damage to farm lands.

During the year ending June 30, 1899, three employees were killed and nine injured through catching feet in frogs and guard rails. The Board is continuing its attention to the question of blocking these openings, and a special report on the subject, as far as one company is concerned, will be found under the title "Inspections" in this report.

During the year the Board approved forms of highway crossing signs upon the applications of several railroad companies of the State, and in some cases disapproved the form of signs submitted to it.

The total number of passengers carried by the steam railroads (not including elevated railroads) reporting to this State during the year ending June 30, 1899, was 149,926,184, an increase of 672,925 as compared with 1898. This includes passengers not carried in this State. The number carried in the State was 68,720,642. The average number of employees, including officials, employed by the steam railroads reporting to the Board, during

the year, was 150,061; the average number residents of the State was 72,682. The aggregate amount of compensation paid all employees, including officials, was \$87,884,228.22. A table of steam surface railroad mileage, in details and total, will be found in this volume.

Elevated Railroads.

The most notable circumstance, from the point of view of the public, during the past year, in connection with elevated railroads of the State (which are all in New York city), is that to a considerable extent the motive power of those in the borough of Brooklyn has been changed from steam to the third rail electric system. The third rail, carrying the power, is in the form of an ordinary T rail, from which the electricity is transmitted to the motors by shoes projecting from the side of the motor car, connected by wires with the motors, in much the same manner as the electricity is conveyed from an overhead trolley wire to the motors in a car. The work of equipping the remainder of the lines in Brooklyn is progressing, and it is expected that in the coming summer all of the elevated lines there will be operated by electricity. The cars are run in trains, controlled by a motorman on the front car, and the trains are equipped with air brakes.

Several of the railroads in Brooklyn which in past years have been operated by steam have been converted to the overhead electrical trolley system, and three of them have been operated in connection with the elevated railroads through the construction of inclined planes at the points of junction. The result has been that a passenger could enter an elevated railroad car at the entrance to the Brooklyn bridge, at New York city, and ride to Coney Island, without change of cars, for a single fare of five cents.

It is understood that the Brooklyn elevated railroad companies are controlled by the companies which control the street surface railroads in Brooklyn, and they have been operated in connection with the surface roads. This operation has in some mat-

ters led to vigorous complaints from citizens, which complaints the Board is investigating at the time of writing this report.

The Manhattan Railway, in New York, is preparing to change its motive power from steam to electricity, third rail system.

It is likely that operation by electricity will benefit the companies through economies which such operation will render possible; people living along the routes of these railroads will be benefited by the removal of the annoyances caused by the operation of locomotive steam engines; and it is probable that the traveling public will be better satisfied with the accommodations enabled to be offered through such operation.

Several accidents, causing a stoppage of cars on that part of the Brooklyn system operated by electricity, have occurred. In one case on the Brooklyn Union Company's line, passengers started to walk from the cars to a station, along a foot path which was not protected by a handrail. The cars started in the meantime, and a person who had tried to board the last car and was clinging to the gate, brushed against several of those on the footway, hurling them to the street, resulting in the death of two and the injury of several others. As the result of an investigation of this occurrence by its electrical expert, the Board recommended that the entire line of the Brooklyn Union Elevated Railroad be equipped with handrails on the sides of the structure. The company notified the Board that it would comply with this recommendation.

The structures of the Brooklyn Elevated and the Kings County Elevated Companies were inspected by an inspector of this Board during the past season, in the ordinary course, and his reports will be found in this volume under the title "Inspections."

An inspection of the Manhattan structure was made by the inspector during the past season, in the ordinary course, and his report, as well as a report by the electrical expert of the Board as to electrolysis in the Manhattan structure, will be found in this volume under the title "Inspections."

At the time of writing this report, the matter of the complaint of residents of the borough of the Bronx, New York city, against the Manhattan Railway Company, as to its failure to construct

its railroad from the present terminus at One Hundred and Seventy-seventh street and Tremont avenue northward to Bedford Park and vicinity, is pending before the Board.

The total number of passengers carried by the elevated railroads during the year ending June 30, 1899, was 213,248,419, a decrease of 14,528,133, as compared with 1898. This decrease is in large part accounted for by the fact that the returns of the Brooklyn Elevated Railroad Company and its successor the Brooklyn Union Elevated Railroad Company cover a period of but nine months, the other three months' statistics being included in the report of the Brooklyn Heights Surface Railroad. The number carried by the Manhattan Railway was 174,324,575, a decrease of 9,036,271, as compared with 1898.

A table of elevated railroad mileage, in details and totals, will be found in this volume. The reports of the companies for the year will be found in the second volume of this report.

The following is a table of accidents occurring on elevated railroads during the year ending June 30, 1899:

	PASSENGERS.		EMPLOYEES.		OTHERS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Brooklyn Union Elevated (9 months)	2	3	4	4	3	.....	9	7
Kings County Elevated .....	.....	5	.....	3	3	.....	2	8
Manhattan Elevated	3	.....	3	5	2	.....	8	5
Total	5	8	7	12	7	.....	19	20

Street Surface Railroads.

The reports of street surface railroads for the year ending June 30, 1899, will be found in the second volume of this report. Following is a comparative statement of totals compiled from these reports for the years ending June 30, 1898, and June 30, 1899:

	For year ending June 30, 1898.	For year ending June 30, 1899.
Capital stock.....	\$132,844,303 33	\$151,427,128 33
Funded debt.....	180,179,166 90	129,524,373 63
Unfunded debt.....	31,808,542 42	37,089,302 92
Cost of road and equipment.....	283,635,396 51	267,888,086 06
Gross earnings from operation.....	81,884,884 20	35,460,822 71
Operating expenses.....	19,153,716 55	21,142,562 63
Net earnings from operation.....	12,730,667 65	14,318,259 08
Income from other sources.....	1,457,501 55	1,636,006 43
Gross income from all sources.....	14,188,169 20	15,954,265 51
Taxes and miscellaneous.....	1,459,469 56	1,779,127 78
* Interest paid and accrued.....	6,022,776 79	6,711,108 76
* Dividends.....	5,799,859 32	7,076,219 50
Surplus or deficit for the year.....	a. 631,007 34	d. 14,083 30

* Includes respectively interest and dividends paid by lessors from rentals received from lessees as follows:

	1898.	1899.
Interest.....	\$1,666,068 34	\$2,375,560 45
Dividends.....	2,729,894 32	2,828,692 50

a. Surplus. d. Deficit.

The percentage of dividends to capital stock of street surface railroad companies for the year ending June 30, 1899, was 4.67. The number of passengers carried on all the street surface railroads of the State, including the few remaining horse railroads, during the year ending June 30, 1899, including "transfers," was 920,365,560, an increase over 1898 of 71,054,890. The number carried in the boroughs of the Bronx and Manhattan, New York city, including "transfers," was 509,314,816, an increase over 1898 of 52,351,063. The number carried in the borough of Brooklyn (including some carried in the borough of Queens), including "transfers," and including those carried during the last three months of the year by the Brooklyn Union Elevated Railroad, was 238,721,051. The following table gives statistics relative to the operation of some of the more important street surface railroads during the year ending June 30, 1899:

BOARD OF RAILROAD COMMISSIONERS.

xli

Street Surface Railway (Principal Companies) Receipts and Expenditures per Passenger and Cost of Operation per Car Mile for Year Ending June 30, 1899.
OPERATED WHOLLY OR IN PART BY MECHANICAL TRACTION.

NAME OF ROAD.	Number of passengers carried, including transfers.	Total car mileage.	BASED UPON GROSS EARNINGS FROM OPERATION AND EXPENSES.		BASED UPON RECEIPTS FROM ALL SOURCES AND TOTAL EXPENDITURES, INCLUDING FIXED CHARGES.		Cost of operation per car mile.	Total expenses per car mile, including fixed charges.
			Average earnings per passenger.	Average cost of operation per passenger.	Average receipts per passenger.	Average expenses per passenger.		
			Cents.	Cents.	Cents.	Cents.	Cents.	Cents.
Albany.....	12,157,017	3,518,738	5.55	3.70	5.61	4.53	12.78	15.63
Auburn.....	1,778,969	422,711	3.96	2.21	3.96	3.60	9.31	15.15
Bachman.....	3,907,530	922,500	4.10	2.33	4.10	3.78	6.83	16.03
Brooklyn Heights (a).....	158,260,948	34,115,391	4.57	2.79	4.57	4.39	12.94	20.40
Buffalo and Lockport.....	37,917,236	6,287,966	3.45	1.70	3.53	12.72	16.62	21.57
Buffalo Railway.....	1,194,109	6,950,897	3.45	1.70	3.53	2.83	10.20	16.91
Buffalo and Niagara Falls.....	28,066,411	5,673,770	4.04	2.47	4.24	3.88	12.23	17.70
Croton Street (Buffalo).....	15,670,922	8,220,127	3.35	2.15	3.27	3.35	10.47	15.84
Genoa, Waterloo, Seneca Falls and Cayuga Lake.....	1,309,317	421,945	4.57	2.50	4.72	5.01	9.76	15.34
Glens Falls, Sandy Hill and Fort Edward.....	1,169,354	398,200	5.04	3.06	5.88	4.04	9.07	11.97
Hamlet Street.....	1,482,117	288,668	4.13	3.24	5.10	4.83	16.09	24.01
Ithaca Street.....	2,482,898	884,548	3.65	2.31	3.74	3.52	9.84	14.98
Janestown.....	1,850,896	225,125	5.00	3.14	5.00	4.90	18.88	25.85
Kingston.....	322,570,634	40,075,413	8.21	1.58	8.21	2.70	15.09	22.86
Metropolitan, New York (b).....	39,930,298	8,986,468	6.36	3.64	6.40	6.34	13.23	23.04
Nassau (Brooklyn) (c).....	1,534,080	373,568	4.00	2.80	4.31	4.96	9.32	20.04
Niagara Falls and Suspension Bridge.....	9,872,950	2,377,638	4.26	2.46	4.81	3.80	10.66	16.47
New York and Queens County.....	22,866,538	4,904,490	3.78	2.22	3.87	3.59	10.12	16.88
Rochester.....	1,119,520	908,950	4.73	2.16	4.83	4.16	7.84	15.10
Syracuse and Suburban.....	12,292,511	2,756,083	3.94	2.35	3.97	3.91	10.41	17.84
Syracuse Rapid Transit.....	48,873,376	11,693,140	4.41	2.56	5.09	3.89	10.74	13.88
Third Avenue, New York.....	12,442,149	3,717,992	4.60	2.59	4.56	3.76	11.88	17.23
Troy City.....	20,720,768	3,660,345	3.22	2.15	3.24	2.92	12.90	16.35
Union, New York.....	1,699,934	3,280,238	4.49	2.15	4.53	4.39	13.20	15.95
Utica and Littleton.....	4,963,633	1,089,534	4.49	2.15	4.53	4.39	13.20	15.95
Yonkers.....	3,066,239	737,483	5.00	3.57	5.03	5.43	14.57	22.63
OPERATED WHOLLY BY ANIMAL POWER.								
Central Croton, New York.....	18,611,576	1,401,670	3.24	2.27	3.26	2.88	26.46	33.56
Dry Dock, East Broadway and Battery.....	16,995,700	2,267,014	3.66	2.73	3.71	3.51	20.31	26.81
Forty-second Street, Manhattanville and St. Nicholas Avenue.....	15,206,447	2,317,244	3.81	3.77	3.96	4.58	20.59	24.59

(a) Includes all lines controlled by Brooklyn Heights not making separate reports. (b) Includes all lines controlled by Metropolitan not making separate reports.
(c) For nine months only.

The following is a table of accidents occurring on street surface railroads during the year ending June 30, 1899, as given in the annual reports of the companies :

NAME OF ROAD. OPERATED BY MECHANICAL TRACTION.	PASSENGERS.		EMPLOYERS.		OTHERS.		TOTAL.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Albany.....	1	9	.....	1	..	15	1	25
Auburn City.....	2	.....	..	..	..	..	2
Ballston Terminal.....	1	.....	2	.....	..	..	2
Bennington and Hoosick Valley.....	1	.....	..	1	..	1	1
Binghamton.....	1	1	.....	..	..	1	1	2
Black River Traction Company.....	4	.....	..	..	1	..	5
Brooklyn Heights.....	7	16	5	9	20	23	41	58
Buffalo.....	1	2	1	2	1
Buffalo and Lockport.....	6	.....	..	..	7	..	14
Buffalo and Niagara Falls Electric.....	23	2	1	4	12	6	25
Buffalo, Kenmore and Tonawanda.....	4	.....	..	..	..	..	4
Buffalo Traction.....	3	..	3
Canandaigua Electric Light and Railroad.....	1	.....	..	..	1
Cohoes City.....	1	.....	1	.....	..	..	2
Coney Island and Brooklyn.....	5	.....	1	9	10	9	16
Corning and Painted Post.....	1	.....	..	1	..	1	1
Cortland and Homer Traction.....	1	1	1	1
Crosstown (Buffalo).....	1	.....	.....	..	1	2	1	2
Dunkirk and Fredonia.....	1	..	1	..	2
Elmira and Horseheads.....	1	.....	..	.....	..	..	1
Geneva, Waterloo, Seneca Falls and Cayuga Lake.....	1	.....	..	.....	..	..	1
Hornellville Electric.....	1	1	.....	1
Hudson Street.....	1	.....	..	.....	..	..	1
Ithaca Street.....	1	.....	..	.....	..	..	1
Jamestown.....	8	.....	1	.....	4	1	12
Long Island Electric.....	8	8	23	7	32	18	38
Metropolitan Street.....	8	28	.....	1	.....	..	..	4
Middletown-Goshen Traction Company.....	10	1	..	9	10	12	20
Nassau Electric.....	2	1	.....	..	.....	..	..	2
Newburgh Electric.....	1	1	.....	1	.....	1	5	4
New York and Queens County.....	8	.....	..	.....	1	.....	3
Olean.....	1	.....	.....	..	.....	1	.....	1
Olean, Rock City and Bradford.....	2	.....	..	.....	1	.....	2
Port Jervis Electric.....	8	8	13	3	23
Rochester.....	1	.....	1	.....	1	.....	1
Southern Boulevard.....	10	.....	1	1	11	1	22
Staten Island Electric.....	12	.....	1	.....	4	1	17
Staten Island Midland.....	1	.....	.....	..	1	.....	1	1
Stillwater and Mechanicville.....	2	.....	..	.....	2	..	4
Syracuse and East Side.....	73	.....	3	3	24	3	100
Syracuse Rapid Transit.....	2	.....	..	.....	2	..	2
Syracuse and Suburban.....	5	.....	2	.....	2	..	7
Tarrytown, White Plains and Mamaroneck.....	11	.....	2	3	5	3	21
Third Avenue.....	17	1	1	1	.....	2	1
Troy City.....	*15	.....	.....	..	.....	..	..	.....
Troy and New England.....	5	.....	..	.....	1	4	5
Union (New York City).....	16	.....	..	5	11	5	27
Van Brunt Street and Erie Basin.....	7	.....	..	.....	..	..	7
Westchester Electric.....	2	.....	..	.....	1	..	2
West Side (Elmira).....	1	.....	..	.....	..	..	1
Yonkers.....	5	.....	2	.....	4	..	11
	23	287	12	62	38	215	123	564
ANIMAL POWER.								
Central Crosstown, New York city.....	3	.....	.....	1	4	1	7
Dry Dock, East Broadway and Battery.....	4	.....	.....	2	1	2	5
Forty-second Street, Manhattanville and St. Nicholas Avenue.....	7	.....	..	.....	6	..	13
	14	.....	.....	3	11	3	25

*Not included in the footing, because included in steam surface railroad accident tables.

During the past year, in other states as well as in this State, many kinds of accidents which have until lately been considered incidents alone of the operation of steam railroads, have occurred on street railroads. Head-on collisions of motor cars have not been infrequent. Cars have left the track. Rear-end collisions have occurred. Motor cars have struck wagons as well as other motor cars at crossings. Cars have been struck at crossings of steam railroads. Nearly all of these accidents have resulted in loss of life or injury. Many of them in this State would have been avoided if the companies had complied with the recommendations of this Board, repeatedly made, which are again repeated here at the end of this title. The Board has endeavored to see that its recommendations are complied with, but co-operation of managers is necessary. It is impracticable to set forth here all that the Board has done in the investigation of accidents and the making of recommendations, tending toward their prevention in the future, but the details of these will be found under the titles "Inspections," and "Accidents" in this volume. That some managers are not awakened to the dangers incident to the operation by the new systems of power, seems to the Board to be proved by the accidents which have occurred.

The electrical expert of the Board has made inspections of many crossings of electric and steam railroads. His recommendations as to switch and signal devices to be installed at these crossings have been made the requirements of this Board, under section 36 of the Railroad Law. Reports on this subject will be found in this volume under the title "Inspections." The inspection of these crossings is proceeding, and it is the intention of the Board that each such crossing in the State shall have been inspected and recommendations in regard thereto, where necessary, made before its next annual report.

In several instances in Brooklyn during the past year electric cars have been operated on the tracks of steam railroads. This method of operation has been investigated by the Board, and a report by the electrical expert on the subject will be found in this volume under the title "Inspections." It is the intention

in these instances that, ultimately, the railroads involved will be entirely operated by electricity.

During the year the Board conducted a test of improved brakes for street surface cars. These tests covered a considerable period of time. At the time of writing this report the necessary compilations have not been made and the report as to the result is not completed.

Inspections and reports are constantly made by the electrical expert and members of the Board as to the accommodations, in general, furnished the public by street surface railroad companies.

The Appellate Division of the Supreme Court, Second Department, has decided that freight may be carried on street surface railroads. This is being done in several instances in the State at present, especially express business, the number of tons of freight carried during the year being 129,040.

The average number of persons, including officials, employed during the year ending June 30, 1899, on all of the street surface railroads of the State was 25,729. The aggregate amount of salaries and wages paid them was \$14,447,573.82. The companies owned or operated on June 30, 1899, 4,743 electric and cable box cars, 3,681 electric and cable open cars, 139 electric mail cars, 631 electric and cable freight, express and service cars. Of these 8,302 were reported as equipped with fenders. There were 1,406 horse cars in operation.

The Board renews its former recommendations as to the operation of street surface railroads, especially in the following particulars:

First.—Every street car which crosses a steam railroad at grade shall be equipped with a red flag for use during the day and a red lantern for use at night. When approaching such crossings the car shall come to a full stop at least thirty feet from the crossing, and shall not proceed until the conductor has gone upon the steam railroad, carrying the flag or lantern, and, after ascertaining that the way is clear, given the proper signal for the car to proceed. At crossings protected by a system of derailing switches interlocked with signals on the steam railroad, and operated by a man stationed at the crossing, this recommendation does not apply. The Board also recommends that at all grade crossings, on overhead trolley

railroads, a V-shaped trough (preferably of metal) be constructed over the trolley wire or wires to insure the motor retaining the current, while the crossing is being made.

Second.—That where two or more street car lines cross, or where they merge, an agreement shall be made as to which line shall have the right of way. The car that has not the right of way shall come to a full stop before crossing over the tracks of the other line, or entering on the joint track.

Third.—That cars passing in opposite directions shall not meet on street crossings.

Fourth.—That the speed of cars be reduced to the minimum on all curves where the view is obstructed.

Fifth.—That passengers be prohibited from riding on the running boards or side steps of open cars.

Sixth.—That passengers be not permitted to stand on the front platforms of open cars, and that only as many passengers be permitted on such platforms as can be conveniently seated. In the case of open cars that have no seats on the front platform, passengers shall not be permitted to ride on the platform, and the side gates shall at all times be kept closed. Under no circumstances should passengers be permitted to ride on the front platforms of closed cars.

Conclusion.

The period covered by this report has been an exceedingly busy and prosperous one for the railroads of the State, and it may reasonably be expected that such conditions will continue to exist for some time to come. Experience teaches, however, that times of depression occur. Prudence requires that the directors and managers of railroad companies shall, during the prosperous period, endeavor to place the properties in their charge in such physical condition that they may, on the score of safety and convenience of the public, view with little alarm, if not with equanimity, the approach of less prosperous times.

All of which is respectfully submitted.

ASHLEY W. COLE,

FRANK M. BAKER,

GEORGE W. DUNN,

Commissioners.

Ten Year Comparisons.

The following series of comparative tables, the figures of which are taken from the annual reports made by the Board for the years 1890 to 1899 inclusive, show the progress of steam railroad enterprise in this State during the past ten years. The apparently abnormal increase in the figures of 1892 and 1893 was caused by the inclusion of the Philadelphia and Reading Railroad, then operating lines in this State, and which was required to report the operations of its entire system. The figures of the Philadelphia and Reading Railroad have been eliminated since 1893.

TABLE SHOWING TOTAL ASSETS.

YEARS.	Cost of road and equipment.	Other permanent investments.	Cash and current assets.	Total assets.
1890.....	\$1,225,335,126	\$60,137,811	\$48,085,389	\$1,333,558,321
1891.....	1,270,285,163	82,195,200	51,929,120	1,404,389,483
1892.....	1,398,880,501	191,938,212	69,234,912	1,660,053,625
1893.....	1,448,473,167	201,216,555	73,544,016	1,723,233,738
1894.....	1,411,248,576	143,269,013	66,155,039	1,620,673,628
1895.....	1,391,577,447	147,439,172	70,094,041	1,609,110,660
1896.....	1,318,279,614	130,390,049	67,490,657	1,516,160,320
1897.....	1,337,926,708	143,097,876	62,694,176	1,543,818,760
1898.....	1,343,035,902	277,166,116	59,448,307	1,679,650,325
1899.....	1,337,536,656	304,569,940	68,633,051	1,710,739,647

TABLE SHOWING TOTAL LIABILITIES.

YEARS.	Capital stock.	Funded debt.	Unfunded debt.	Total liabilities.
1890.....	\$631,676,009	\$608,413,909	\$48,598,991	\$1,288,688,908
1891.....	646,712,352	633,450,067	61,033,665	1,341,196,085
1892.....	699,889,898	808,934,865	89,750,526	1,598,575,289
1893.....	715,520,890	832,378,461	110,776,958	1,658,676,312
1894.....	737,878,693	733,627,525	85,418,795	1,556,925,014
1895.....	725,066,079	732,363,503	99,360,452	1,556,790,034
1896.....	748,551,535	639,401,432	77,368,759	1,465,321,727
1897.....	751,780,390	668,099,618	75,979,865	1,495,859,873
1898.....	776,539,404	787,756,644	71,135,208	1,635,431,256
1899.....	785,516,804	799,742,027	76,130,042	1,661,388,873

TABLE SHOWING SURPLUS OF PROPERTY ACCOUNT.

YEARS.	Total assets.	Total Liabilities.	Surplus.
1890.....	\$1,333,558,326	\$1,288,688,908	\$44,869,418
1891.....	1,404,389,463	1,344,196,085	60,191,378
1892.....	1,600,653,355	1,598,575,289	61,478,066
1893.....	1,723,263,788	1,658,876,312	64,557,426
1894.....	1,820,673,628	1,556,825,014	63,748,614
1895.....	1,809,110,960	1,556,796,084	52,820,626
1896.....	1,516,190,320	1,465,321,727	50,838,598
1897.....	1,543,718,760	1,493,856,893	47,858,897
1898.....	1,679,650,325	1,035,431,256	44,219,069
1899.....	1,710,739,947	1,661,388,873	49,350,774

TABLE SHOWING MAIN LINE AND TRACK MILEAGE.

YEARS.	Total miles of road main line, operated.	Total miles of road, main line in State of New York.	*Miles of track operated.	*Miles of track in State of New York.
1890.....	12,611	7,590	21,125	12,906
1891.....	12,947	7,651	21,909	13,215
1892.....	14,560	7,770	25,992	13,808
1893.....	15,092	7,888	27,348	13,854
1894.....	14,999	7,992	26,673	14,182
1895.....	15,061	8,032	27,145	14,282
1896.....	15,238	8,070	27,433	14,401
1897.....	15,188	8,114	27,487	14,785
1898.....	15,180	8,065	27,783	14,568
1899.....	15,280	8,075	27,801	14,863

* Includes double and other additional track, sidings and switches.

TABLE SHOWING LOCOMOTIVE AND CAR EQUIPMENT.

YEARS.	Locomotives.	Passenger cars.	Baggage, mail and express cars.	Freight and other cars.
1890.....	4,640	4,188	1,212	173,404
1891.....	4,936	4,348	1,237	183,067
1892.....	6,548	5,284	1,651	275,463
1893.....	6,875	6,065	1,575	271,935
1894.....	6,453	6,104	1,544	247,347
1895.....	6,481	6,084	1,497	241,844
1896.....	6,264	5,981	1,568	245,874
1897.....	6,297	5,869	1,627	237,525
1898.....	6,271	5,900	1,658	233,043
1899.....	6,346	5,953	1,688	224,494

TABLE SHOWING AVERAGE NUMBER OF EMPLOYEES.

YEARS.	Number of employees.	YEARS.	Number of employees.
1890.....	112,044	1895.....	134,402
1891.....	122,196	1896.....	146,987
1892.....	153,456	1897.....	143,196
1893.....	163,289	1898.....	140,992
1894.....	140,733	1899.....	150,061

TABLE SHOWING OPERATING EXPENSES AND NET EARNINGS FROM OPERATION.

YEARS.	Gross earnings from operation.	Operating expenses.	Net earnings from operation.	Percentage of operating expenses to gross earnings from operation.
1890.....	\$163,974,833 87	\$107,959,410 80	\$56,015,423 07	65.84
1891.....	169,012,504 22	113,528,346 87	55,484,157 35	67.17
1892.....	213,998,745 98	143,364,445 67	70,634,300 31	66.99
1893.....	234,354,615 20	157,128,961 48	77,225,650 72	67.05
1894.....	197,967,815 47	137,040,574 21	60,916,741 26	69.23
1895.....	199,198,355 24	136,337,603 65	62,860,751 59	68.44
1896.....	210,089,592 75	146,063,417 77	64,026,174 98	69.52
1897.....	204,252,615 41	139,146,406 28	65,106,209 13	68.12
1898.....	314,050,214 51	146,555,719 71	67,494,494 80	68.47
1899.....	220,027,722 90	149,411,333 05	70,616,389 85	67.91

TABLE SHOWING INCOME FROM ALL SOURCES.

YEARS.	Gross passenger earnings.	Gross freight earnings.	Income from other sources.	Gross income.
1890.....	\$56,678,359 80	\$110,296,474 07	\$5,172,928 60	\$169,147,763 47
1891.....	57,195,893 53	111,816,610 69	4,965,163 92	173,977,668 14
1892.....	65,840,904 11	148,657,841 87	6,375,593 64	220,874,341 62
1893.....	71,090,353 47	162,664,261 73	7,243,112 88	241,597,728 08
1894.....	79,498,321 68	125,458,993 79	7,584,135 38	205,541,450 85
1895.....	67,877,890 77	131,220,464 47	7,128,186 83	206,326,542 07
1896.....	71,091,846 43	138,997,746 32	7,132,210 88	217,221,803 63
1897.....	68,082,213 33	136,170,401 58	6,486,571 16	210,739,186 67
1898.....	69,199,529 85	144,850,684 66	9,021,144 67	223,071,359 18
1899.....	71,532,006 97	148,475,115 93	11,056,135 66	231,063,258 46

TABLE SHOWING GROSS EXPENDITURES AND NET SURPLUS OR DEFICIT.

YEARS.	Operating expenses.	Interest, taxes, rentals, and miscellaneous.	Dividends and other payments from net income.	Gross expenditures.	Gross income.	Net surplus or deficit.	Percentage of gross expenditures to gross income.
1890	\$107,959,410 80	\$42,430,451 05	\$14,375,656 20	\$164,765,518 05	\$189,147,763 47	\$4,382,244 42	97.41
1891	113,528,848 87	45,132,458 77	12,432,878 82	171,114,184 46	178,977,686 14	2,863,503 68	98.35
1892	143,864,445 67	58,057,073 79	13,561,638 07	217,973,177 53	220,374,341 62	2,401,164 09	98.91
1893	157,123,964 45	66,062,667 96	14,717,848 11	237,932,480 53	241,597,728 08	3,665,247 55	98.48
1894	137,040,574 21	54,780,455 16	15,738,075 57	207,559,104 95	205,541,456 85	2,017,654 09	100.98
1895	138,857,603 65	54,893,209 09	14,948,390 79	208,749,203 53	206,326,542 07	147,338 54	96.92
1896	148,063,417 77	52,334,581 80	14,660,008 18	215,057,997 70	217,231,893 63	2,173,895 93	98.36
1897	139,146,406 28	54,921,486 61	14,405,069 79	208,472,962 68	210,789,186 57	2,316,223 89	98.77
1898	146,555,719 71	55,702,627 84	14,548,282 67	216,807,630 22	223,071,359 18	6,263,728 96	97.20
1899	149,411,833 05	58,477,845 55	15,152,965 58	223,022,144 18	231,083,868 46	8,061,714 28	96.51

d Deficit.

SEVENTEENTH ANNUAL REPORT OF THE

TABLE SHOWING DISTRIBUTION OF OPERATING EXPENSES PER MILE OF ROAD OPERATED.

YEARS.	Maintenance of way and structure.	Maintenance of equipment.	Conducting transportation.	General expenses.	Total cost of operation.
1890	\$1,682 93	\$1,543 08	\$4,253 32	\$1,081 10	\$8,560 43
1891	1,638 63	1,433 25	4,552 49	1,144 18	8,768 55
1892	1,807 50	1,809 57	5,058 41	1,370 76	9,846 23
1893	1,882 45	1,715 52	5,404 38	1,409 05	10,411 41
1894	1,517 96	1,461 38	4,811 55	1,326 09	9,116 98
1895	1,466 61	1,468 57	5,792 07	825 09	9,052 34
1896	1,678 02	1,765 43	5,820 69	836 32	9,585 46
1897	1,595 34	1,866 47	5,653 26	346 86	9,161 43
1898	1,620 83	1,760 74	5,837 79	845 10	9,653 96
1899	1,670 67	1,788 57	5,972 70	846 29	9,778 23

* Reduction caused by transfer of various accounts from "General Expenses" to "Conducting Transportation."

TABLE SHOWING DIVIDENDS PAID AND PERCENTAGE OF DIVIDENDS TO CAPITAL STOCK.

YEARS.	Capital stock.	Net income.	Dividends paid from net income.	Dividends paid lessor Co.'s as part of rental.	Total dividends paid.	Percentage of dividends to capital stock.
1890 ...	\$631,676,007 09	\$18,757,900 62	\$11,652,159 86	\$3,567,892 90	\$15,250,052 76	2.41
1891 ...	646,712,352 09	15,315,862 50	12,358,240 20	3,831,616 78	16,189,856 98	2.50
1892 ...	699,889,808 48	17,952,822 16	13,720,302 10	4,291,046 46	18,011,348 56	2.72
1893 ...	715,630,800 35	18,376,095 64	14,662,992 60	3,182,469 69	18,705,462 29	2.61
1894 ...	737,878,691 77	13,720,421 48	15,503,538 95	4,199,470 11	19,703,009 01	2.69
1895 ...	725,066,078 76	15,095,729 33	14,943,065 79	4,136,277 89	19,079,343 68	2.63
1896 ...	748,551,535 10	18,223,824 06	14,557,454 00	4,113,780 53	18,671,234 53	2.49
1897 ...	751,780,390 10	16,971,293 68	14,323,464 22	4,105,425 82	18,428,890 04	2.45
1898 ...	776,539,404 93	20,813,011 63	14,346,582 67	4,044,788 58	18,591,321 25	2.39
1899 ...	785,516,804 03	23,194,679 88	15,085,978 50	4,040,035 65	19,126,014 15	2.43

TABLE SHOWING PASSENGER AND FREIGHT TRAIN MILEAGE, NUMBER OF PASSENGERS AND TONS OF FREIGHT CARRIED AND NET EARNINGS PER MILE OF ROAD OPERATED.

Years.	Pasenger train mileage.	Freight train mileage.	All other train mileage.	Number of passengers carried.	Tons of freight carried.	Pasenger profit per mile of road operated.	Freight profit per mile of road operated.	Gross earnings from operation per mile of road operated.	Operating expenses per mile of road operated.	Net earnings per mile of road operated.
1890.....	45,917,173	66,905,619	25,374,179	115,822,617	110,652,903	\$1,439 09	\$2,932 54	\$13,092 06	\$8,560 43	\$4,441 63
1891.....	47,680,993	68,447,987	25,569,316	125,911,800	114,352,334	1,525 85	2,760 05	13,053 94	8,768 55	4,285 41
1892.....	57,606,712	89,406,687	29,894,246	153,142,060	166,164,437	1,362 87	3,468 27	14,997 37	9,846 23	4,851 14
1893.....	66,622,705	95,914,315	42,809,169	170,435,563	167,341,226	1,266 99	3,450 17	15,538 09	10,411 61	5,117 04
1894.....	63,555,939	81,291,894	30,543,003	162,957,535	126,431,679	1,557 23	2,504 28	13,168 48	9,138 93	4,061 55
1895.....	62,420,337	80,958,969	32,692,689	161,965,360	128,694,811	1,100 23	3,073 50	13,225 07	9,052 34	4,173 73
1896.....	64,494,568	84,143,407	35,244,360	179,315,449	149,587,572	1,204 71	2,997 25	13,787 21	9,586 47	4,291 74
1897.....	64,969,848	78,694,514	34,074,440	170,274,403	140,631,369	1,105 76	3,180 85	13,448 04	9,161 43	4,286 61
1898.....	65,046,314	82,201,699	29,682,894	149,263,259	158,561,357	1,036 48	3,409 54	14,099 98	9,653 96	4,446 02
1899.....	65,859,769	78,122,768	35,569,931	149,926,184	169,892,580	1,057 63	3,563 86	14,399 72	9,778 23	4,621 49

TABLE SHOWING RESULTS OF PASSENGER TRAFFIC PER PASSENGER PER MILE AND OF FREIGHT TRAFFIC PER TON PER MILE, WITH PERCENTAGES.

YEARS.	PASSENGER EARNINGS AND EXPENSES PER PASSENGER PER MILE.			FREIGHT EARNINGS AND EXPENSES PER TON PER MILE.			Percentage of freight expenses to freight earnings.
	Earnings (cents).	Expenses (cents).	Profits (cents).	Earnings (cents).	Expenses (cents).	Profits (cents).	
1890.....	2.28	1.48	.80	.770	.510	.260	66.24
1891.....	2.28	1.45	.77	.767	.523	.245	67.33
1892.....	2.31	1.54	.67	.764	.503	.261	65.88
1893.....	2.16	1.60	.56	.777	.500	.277	64.28
1894.....	1.98	1.31	.68	.766	.537	.229	70.06
1895.....	2.24	1.69	.55	.765	.476	.289	64.73
1896.....	2.23	1.65	.57	.701	.471	.230	67.14
1897.....	2.23	1.68	.55	.709	.457	.252	64.52
1898.....	2.20	1.70	.50	.665	.481	.187	64.36
1899.....	2.17	1.68	.49	.633	.401	.233	63.32

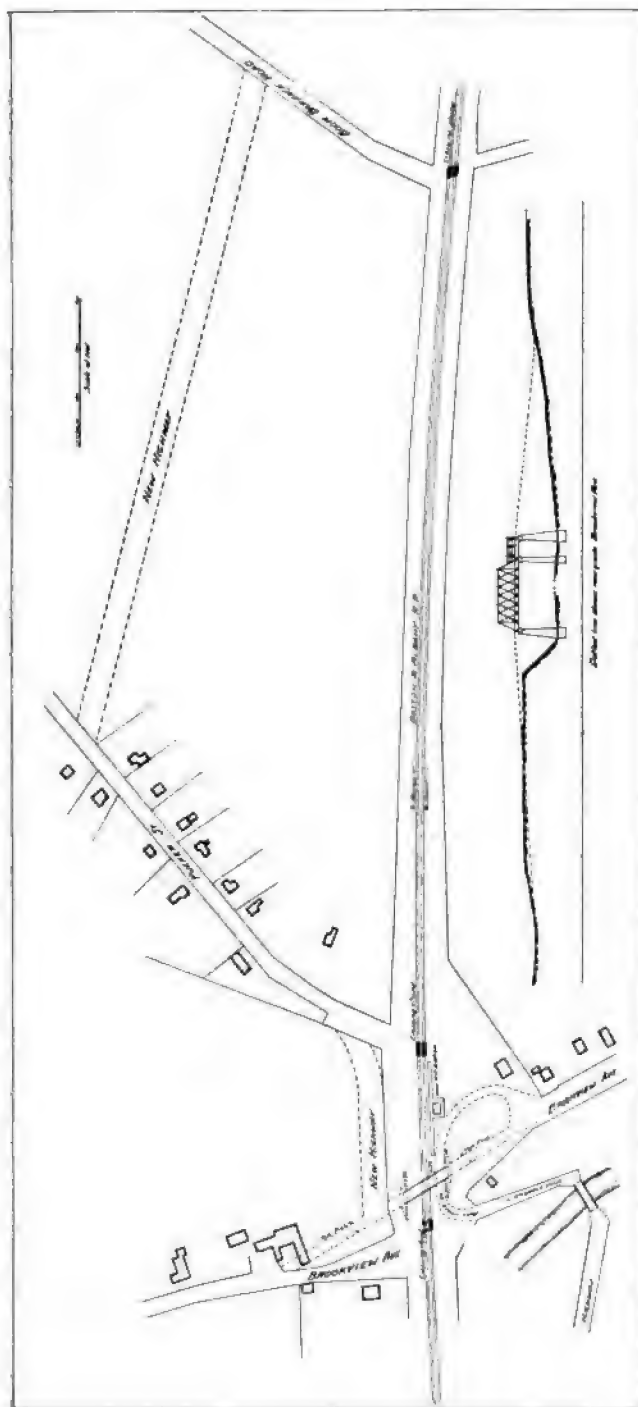
PHOTOGRAPHS AND
OUTLINE MAPS

Showing Progress of Work in the Abolishment
of Certain Grade Crossings.



Village of Shortaville. View of completed undergrade crossing of East Avenue by the New York Central and Hudson River Railroad. This highway formerly crossed at grade. (For determination see Report of 1888.)





Map showing highways and former highway grade crossings of the Boston and Albany Railroad at Brookview, town of Schodack, Rensselaer county.
Also plan executed by means of which the three grade crossings were abolished.



Brookview, Rensselaer county. View of Brookview avenue grade crossing (now closed). (For determination see Report of 1888.)

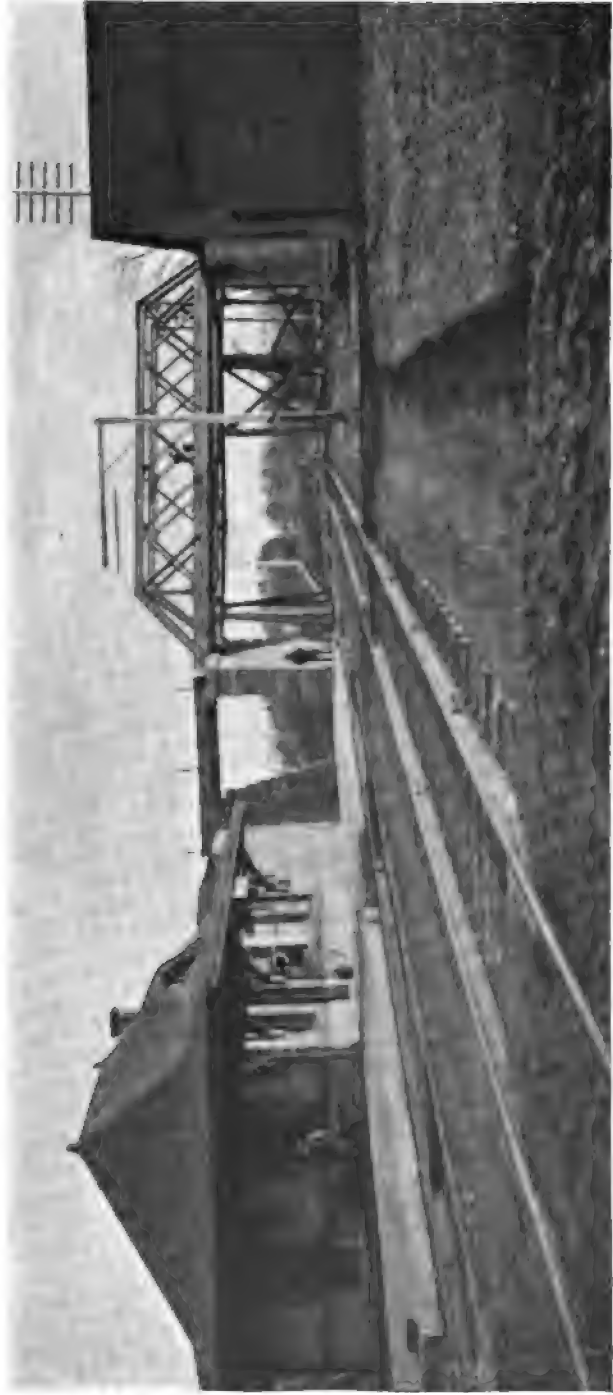


Brookview avenue, Brookview, town of Schoenack, Rensselaer county. View showing crossing of Pucker street with Boston and Albany Railroad.
(Crossing is now closed.)





Brookview, town of Schodack, Rensselaer county. View of westerly abutment, showing class of abutment masonry built by the Boston and Albany Railroad Company. Brookview avenue grade crossing in foreground.

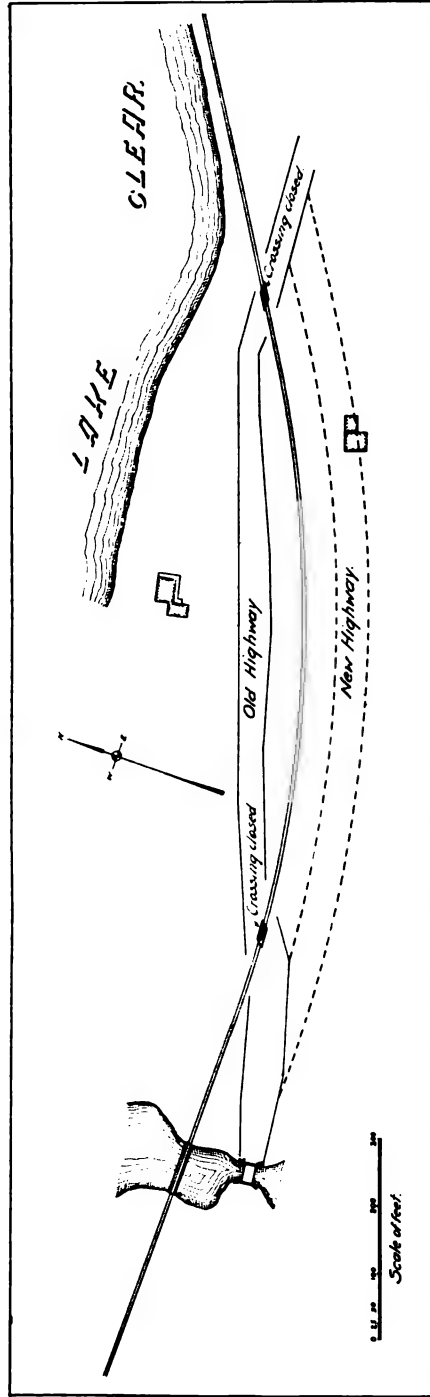


Brookview, Rensselaer county. View of uncompleted bridge over the Boston and Albany Railroad tracks. Also short span over driveway. This picture shows the new passenger station built by the Railroad Company in connection with the work of eliminating the grade crossings. (For determination see Report of 1898.)





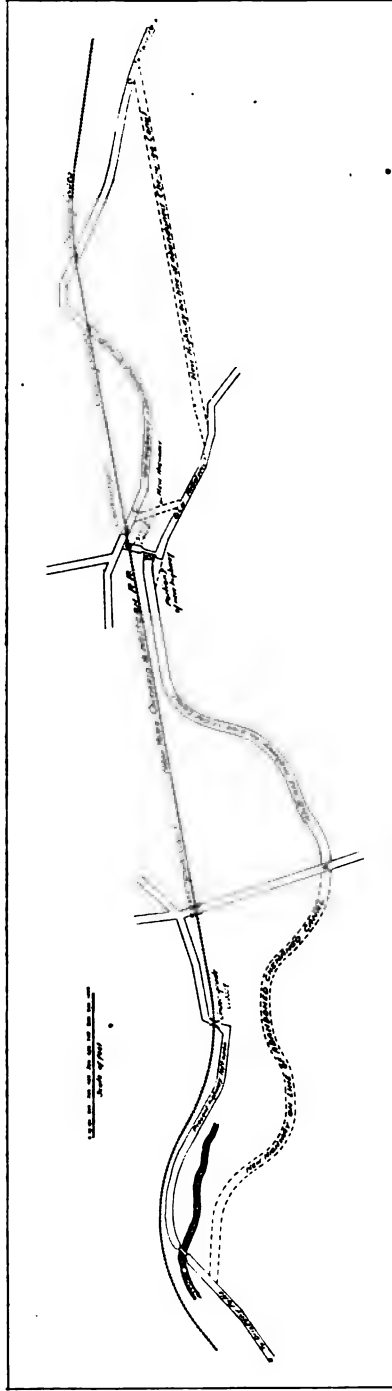
Brookview, town of Schodack, Rensselaer county. View along new highway and bridge over the railroad tracks. This bridge is of the solid floor type, and both roadway and sidewalk are paved with asphalt. (For determination see Report of 1898.)



Map showing how two highway grade crossings of the New York Central and Hudson River Railroad were abolished by the construction of a new piece of highway about 1,230 feet long, town of Harrietstown, Franklin county. (See determination in Report of 1898.)

1





Map showing how three highway crossings at grade of the New York, Ontario and Western Railroad were abolished by building a series of new highways, Town and county of Madison.



Town of Madison. View of Hogsback crossing No. 1 with New York, Ontario and Western Railroad. (Now closed.)



Town of Madison. View showing Hogaback crossing No. 2 with New York, Ontario and Western Railroad. Hogaback crossing No. 1 in distance.
(Crossing now closed.)



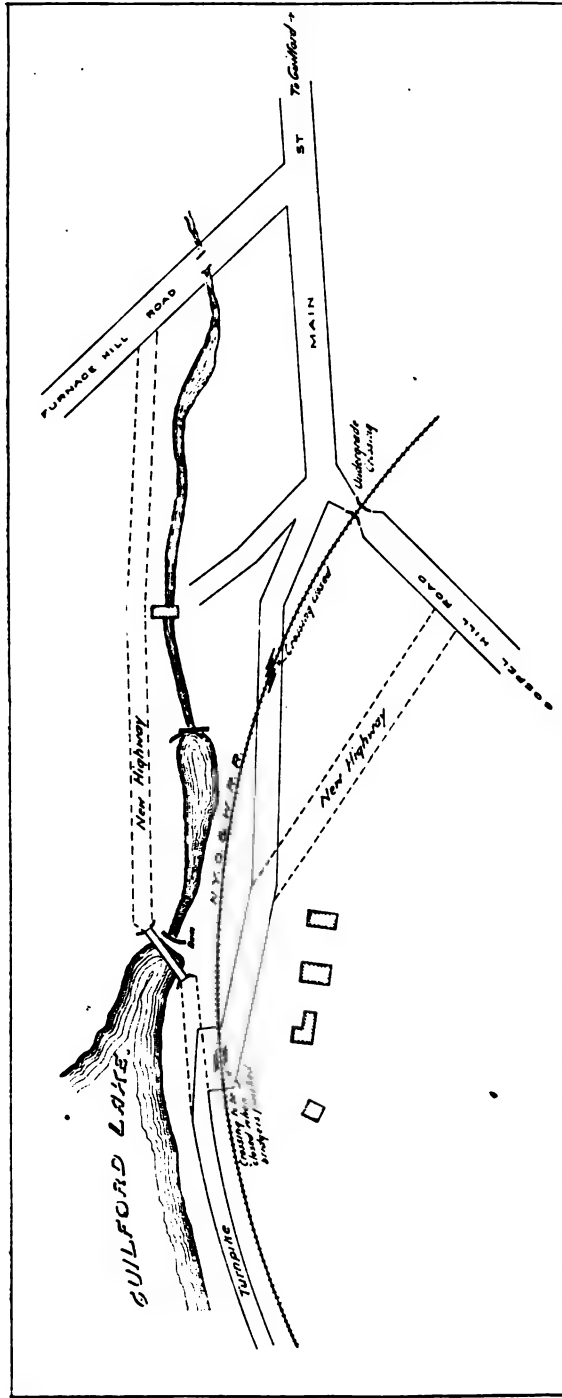
Town of Madison. View of the two grade crossings of the New York, Ontario and Western Railroad at Flak's Mills. The crossing to the left is closed.



Village of St. Johnsville. View, looking in a northeasterly direction, of a portion of the viaduct and false work for the main bridge over nine tracks of the New York Central and Hudson River Railroad December 13, 1899. There was formerly a grade crossing at this point.



Village of St. Johnsville. View along new drive to New York Central and Hudson River Railroad station. Also high fill along Bridge avenue in the distance. False work of bridge over tracks to the left.



Guilford, Chenango county. Map showing changes made in highways and location of proposed bridge. When the bridge is erected over the dam at the end of Guilford Lake, two highway crossings at grade of the New York, Ontario and Western Railroad will have been abolished. One of these crossings is now closed.



Town of Gullford, Chenango county. View of Milk Station crossing of the New York, Ontario and Western Railroad. (Now closed.)



Town of Guilford, Chenango county. View of Root's crossing of the New York, Ontario and Western Railroad. (To be closed upon completion of bridge.)





Town of Gullford, Chenango county. View of easterly abutment for bridge over dam at end of Gullford Lake.



Erle Railroad. View showing Ireland road grade crossing, also relative positions of present crossing and new undergrade crossing.

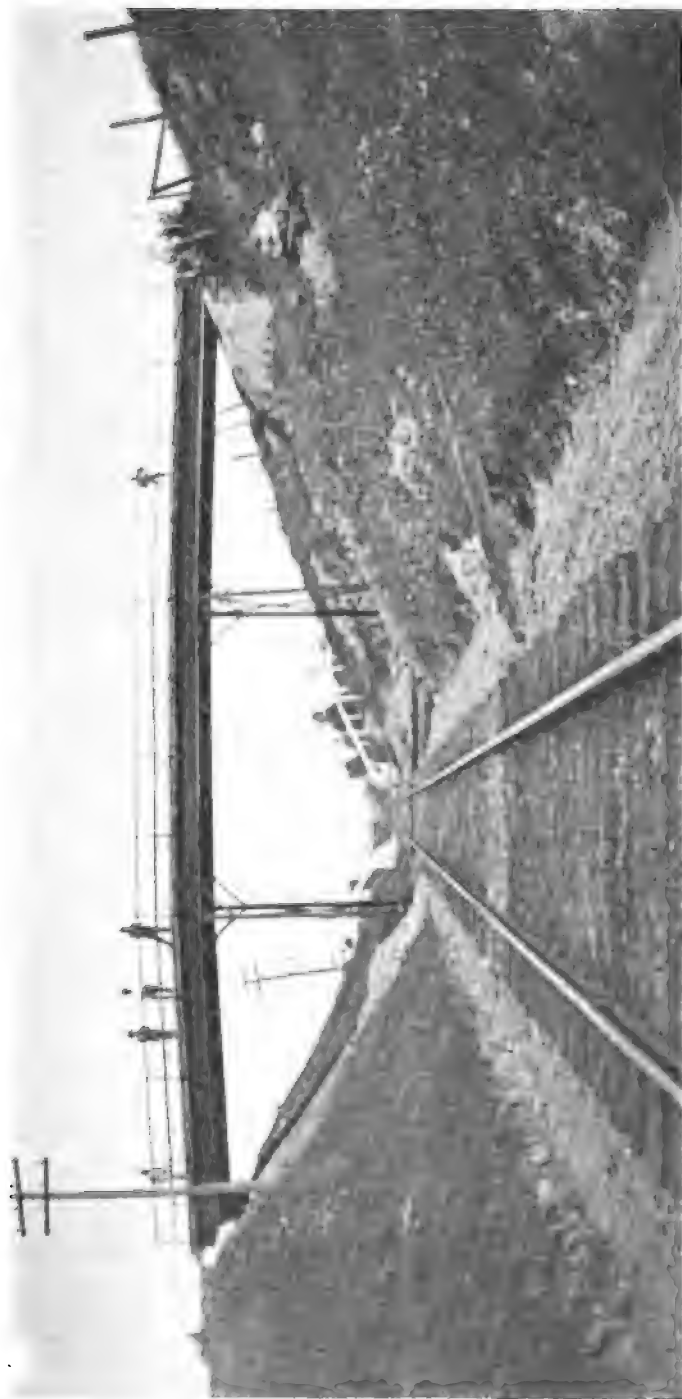


Ireland road, town of Randolph, Cattaraugus county. View showing temporary trestle work and excavation for undergrade crossing of the Erie Railroad.

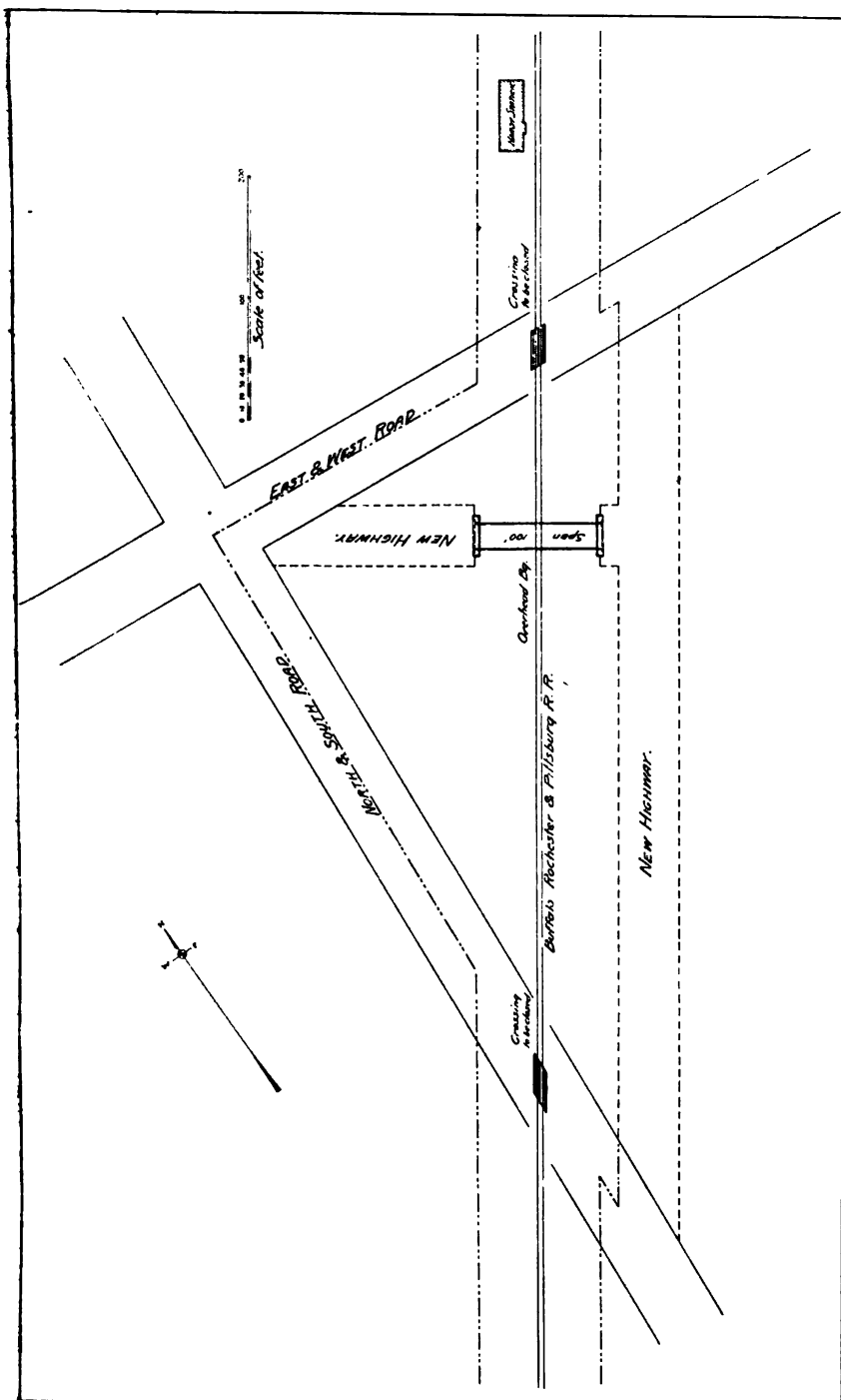


Town of Holland, Erie county. View of Crosby road crossing of the Western New York and Pennsylvania Railroad. (Now closed.)





Town of Holland, Erie county. View of new steel overhead highway bridge carrying Crosby road over the Western New York and Pennsylvania Railroad. Old highway grade crossing (now closed) in the distance.



Map showing method that will be pursued in abolishing two highway grade crossings with the Buffalo, Rochester and Pittsburgh Railroad near Hardy station, town of Gainesville, Wyoming county. All masonry work and grading have been finished. The bridge has not yet been delivered.



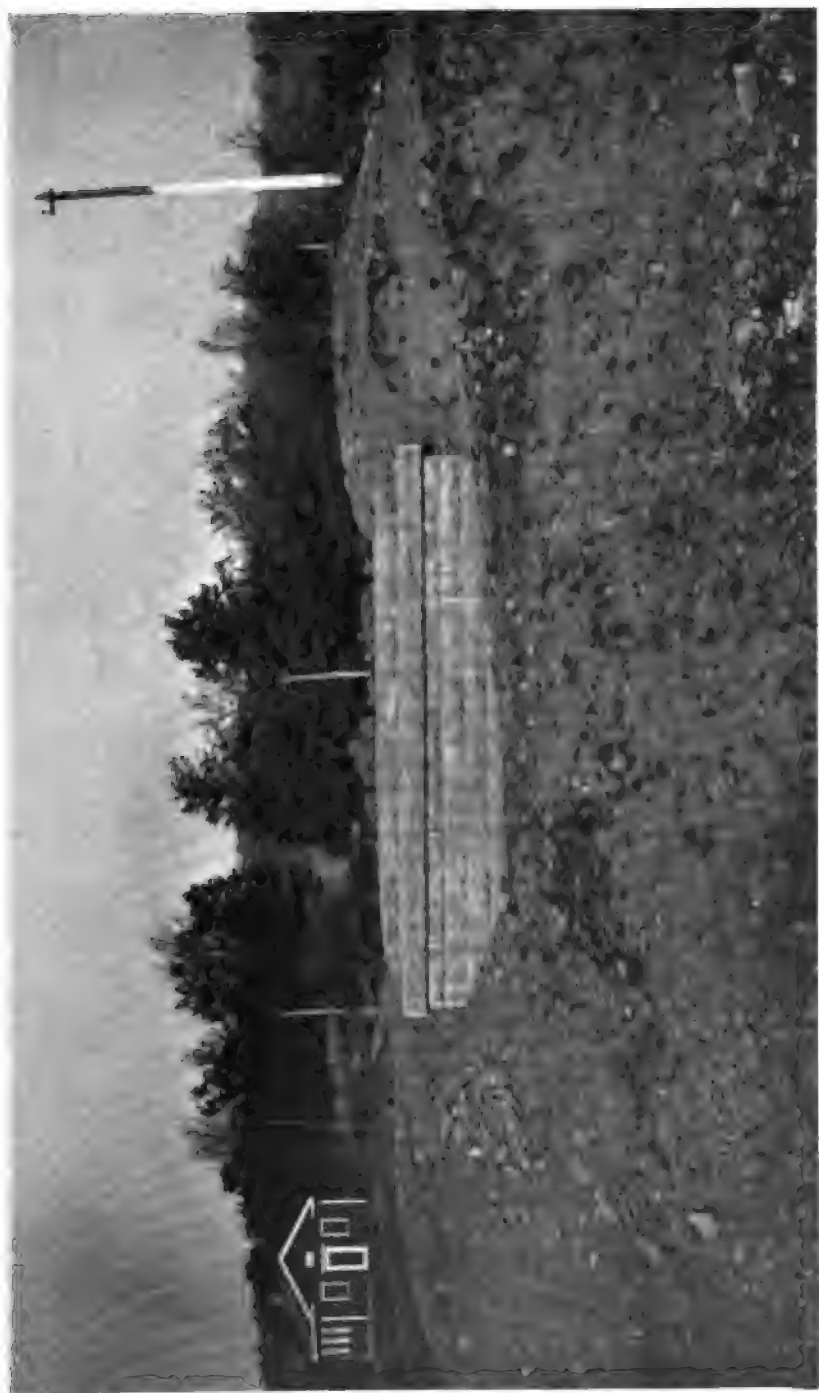
Town of Gainesville, Wyoming county. Buffalo, Rochester and Pittsburgh Railroad. View of northerly crossing. (To be closed.)



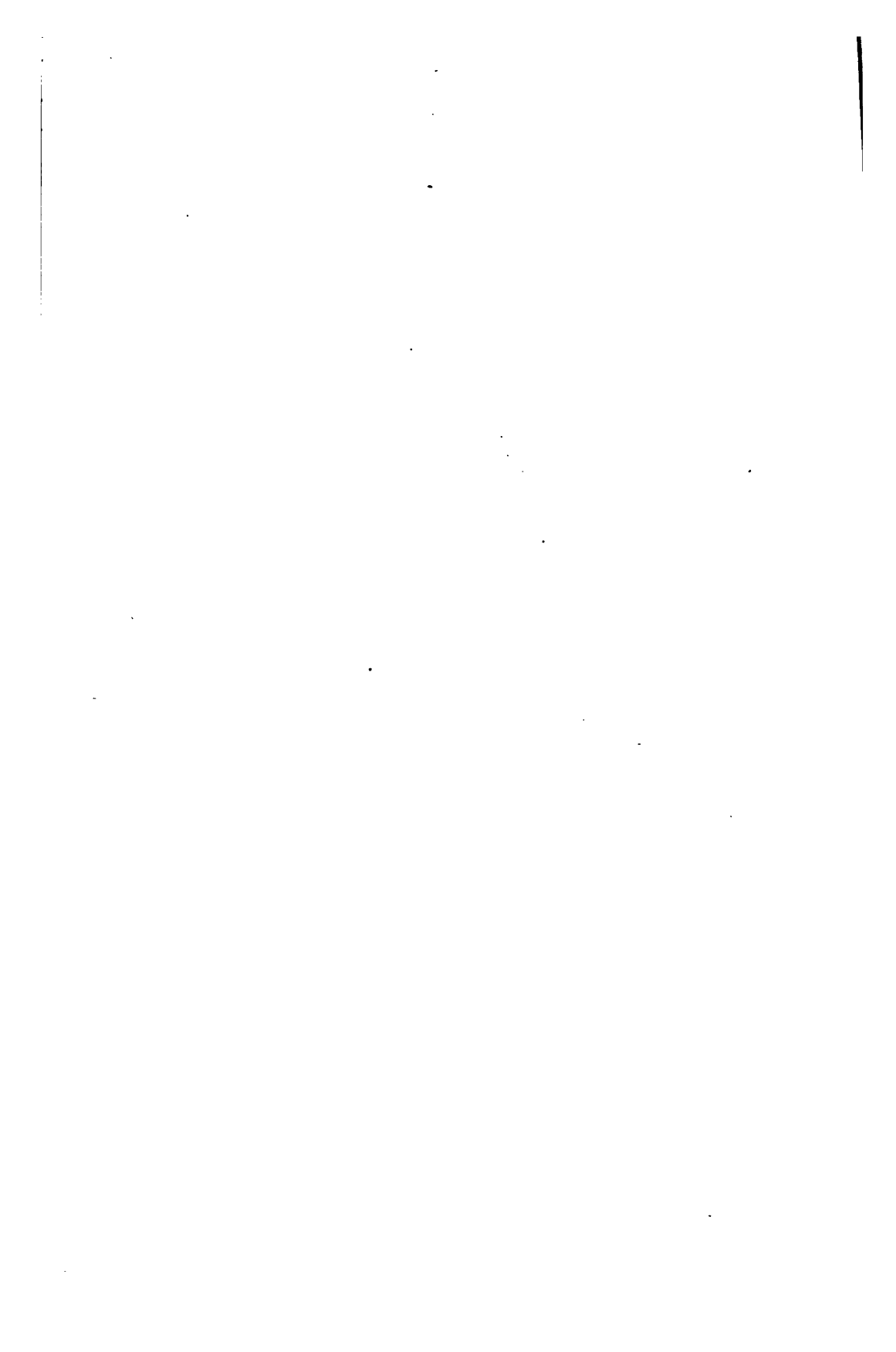
Town of Gainesville, Wyoming county. Buffalo, Rochester and Pittsburgh Railroad. View showing southerly crossing. (To be closed.)



Town of Gainesville, Wyoming county. View of new connecting highway from southerly grade crossing to proposed bridge over tracks of the Buffalo, Rochester and Pittsburgh Railroad. End of easterly abutment can be seen in the distance.

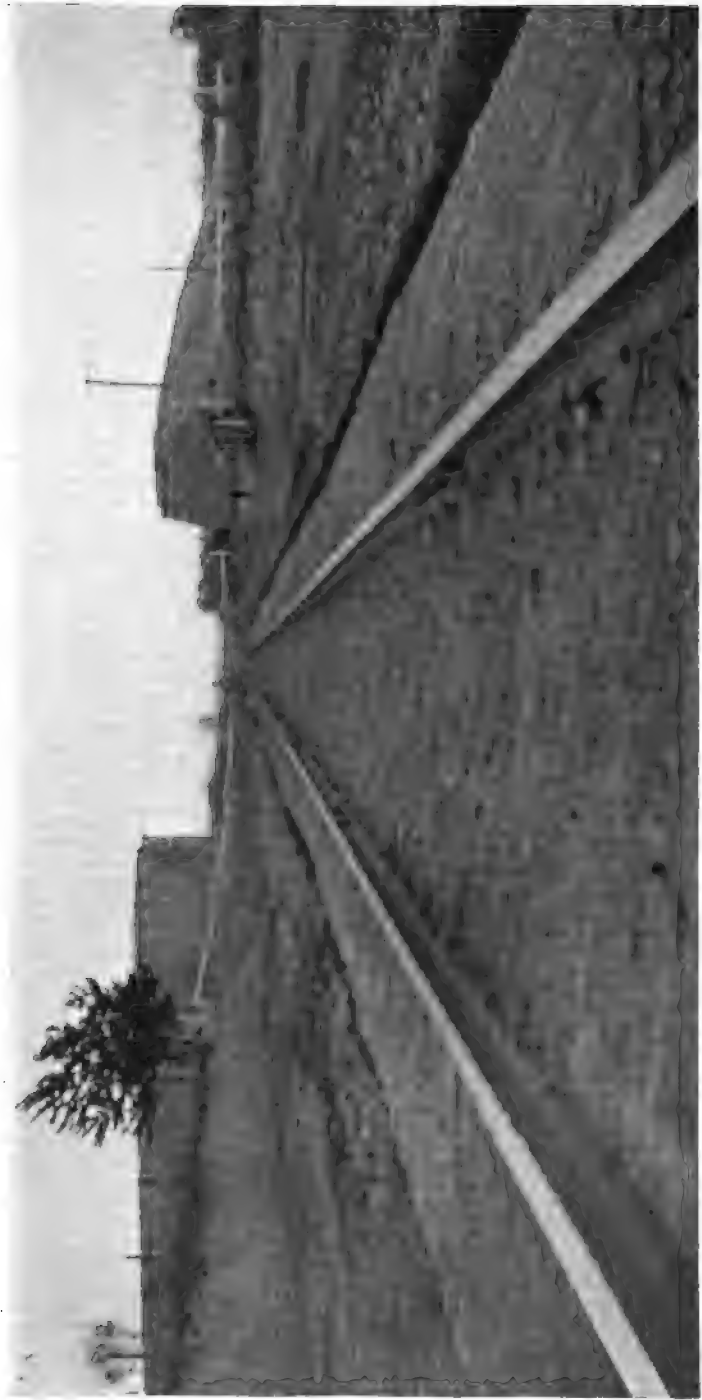


Town of Gainesville. View of the westerly abutment, showing class of masonry built by Buffalo, Rochester and Pittsburgh Railroad.

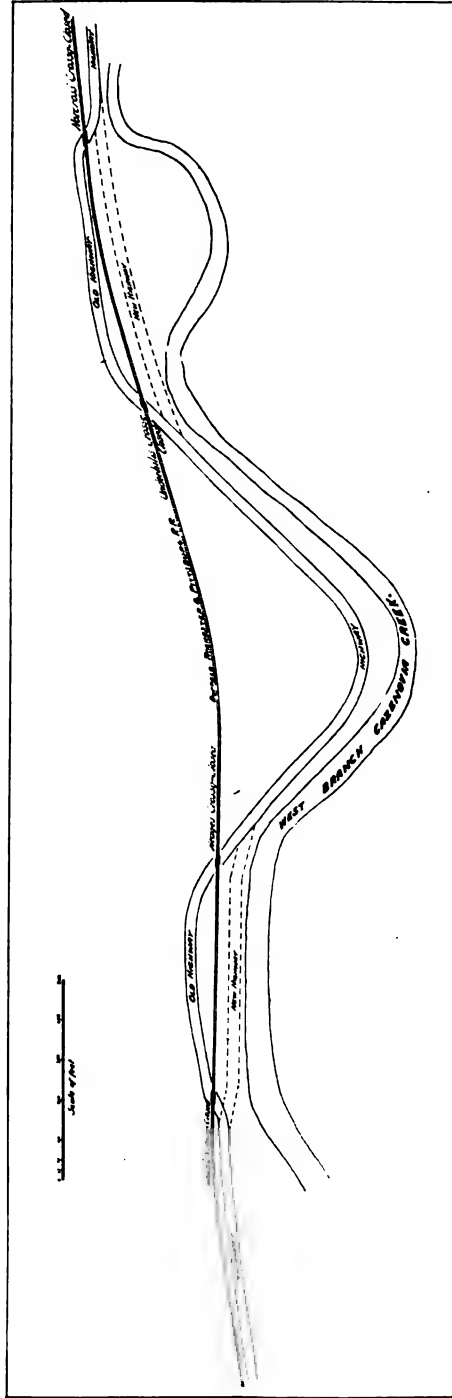




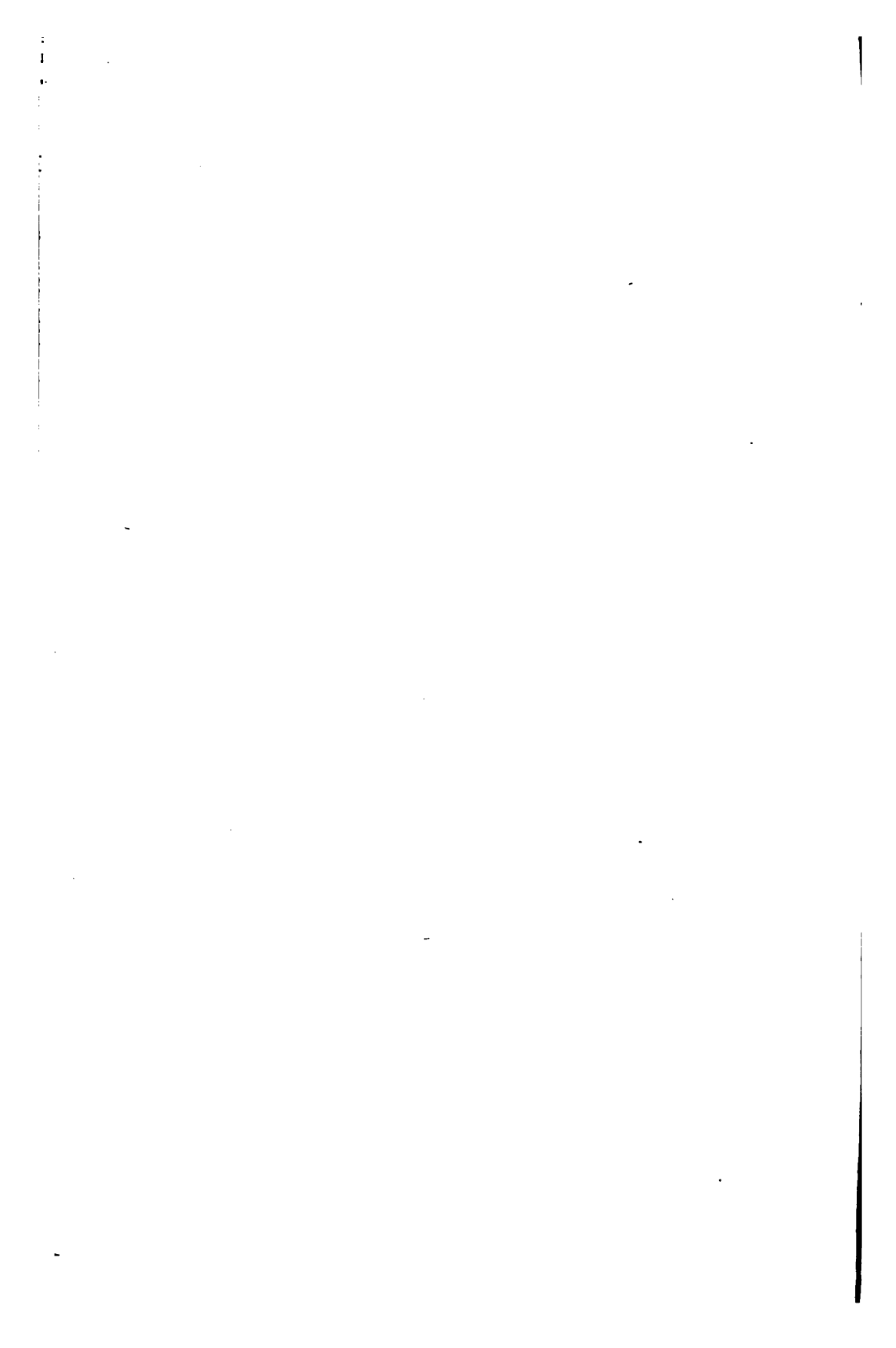
Town of LeRoy. Buffalo, Rochester and Pittsburgh Railroad. View showing Haskins' grade crossing (to be closed) and location of two abutments for proposed overhead bridge, July 14, 1899.



Town of LeRoy. Buffalo, Rochester and Pittsburgh Railroad. View of masonry abutments and filling. Awaiting the bridge.



Map showing two new pieces of highway built in town of Colden, Erie county, by means of which four highway crossings at grade with the Buffalo, Rochester and Pittsburgh Railroad were abolished,





Town of Colden, Erie county. View of Gould's crossing of the Buffalo, Rochester and Pittsburgh Railroad (now closed). (Gould's crossing in the distance



Town of Colden, Erie county. Buffalo, Rochester and Pittsburgh Railroad. View of Hedge's crossing (now closed).



Town of Colden, Erie county. Buffalo, Rochester and Pittsburgh Railroad. View of Underhill's crossing (now closed). Norcross' crossing in the distance.



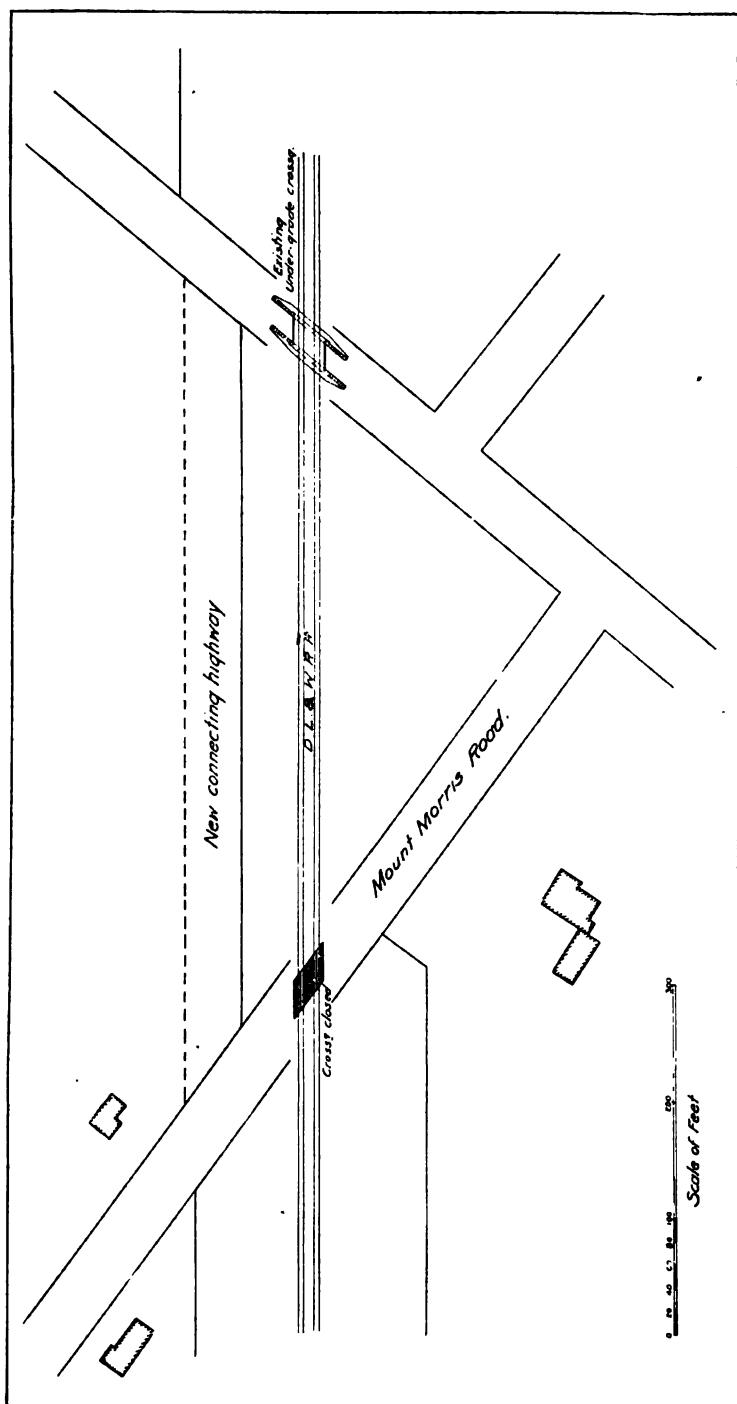
Town of Colden, Erie county. Buffalo, Rochester and Pittsburgh Railroad. View of Norcross' crossing (now closed).



Town of Colden. Buffalo, Rochester and Pittsburgh Railroad. View showing rip rap against bank of new highway. Bed of Cazenovia creek in foreground.



Town of Colden. Buffalo, Rochester and Pittsburgh Railroad. View of new highway between Underhill's and Norcross' crossings.



Map showing new connecting highway built at Leicester, Livingston county, for the purpose of diverting all travel from the Mt. Morris road grade crossing with the Delaware, Lackawanna and Western Railroad to an existing undergrade crossing.





View of undergrade crossing of the Delaware, Lackawanna and Western Railroad to which travel from the Mt. Morris grade crossing has been diverted.

APPENDIX.

Report of Commissioners.

Decisions and recommendations:

Complaints of cities, towns, etc.

Stations and station buildings.

Crossings.

Highway crossing signs on railroads.

Applications for change of motive power.

Applications for increase of capital stock.

Applications for consent to the issue of mortgages.

Applications for a certificate under section 59 of the Railroad Law.

Inquiries as to application under section 59 of the Railroad Law.

Decisions of courts in questions arising under section 59 of the Railroad Law.

Abandonment of part of street surface railroad.

Change of name.

Change of gauge.

Cooking stoves in cars.

In the matter of wrecking tools in passenger cars.

Inquiries.

Circulars issued during year.

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Accident inquiries.

Length of steam roads.

Length of elevated and street roads.

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Unfinished business.

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Companies reorganized.

Companies consolidated.

Extension of routes.

Increase of capital stock.

Increase of number of shares of capital stock.

Change of place of business.

Leased roads.

Reduction of number of directors.

Increase of number of directors.

Certificate under section 59 of the Railroad Law, filed in the Secretary of State's office.

Change of name.

Change of route.

Certificate of abandonment of part of route.

Certificate of merger.

Transfer of franchise.

Enactments.

Alphabetical list of all companies formed under the laws of this State.

Rules of procedure.

Traveling expenses of the Board.

LAWS—PART II.

"Condemnation Law."

"General Corporation Law."

"Stock Corporation Law."

"Railroad Law."

Grade Crossing Law—section 60 to 69, Railroad Law.

Sections of the Constitution relating to railroads.

General acts relating to railroads not embraced in the above laws.

Tax laws relating to railroads.

Bonding of towns, and railroad aid debts.

Extracts from Code of Criminal Procedure.

Extract from Penal Code.

Rapid Transit Act (Act of 1891 as amended).

Interstate Commerce Act (as amended).

DECISIONS AND RECOMMENDATIONS.

Complaints of Cities, Towns, Associations, Individuals, Etc.

I.

IN THE MATTER OF THE COMPLAINT OF FRED D. COTANCH AGAINST
THE LEHIGH VALLEY RAILROAD COMPANY, AS TO FENCES.

November 23, 1898.

This complaint was filed with this Board on November 5, 1898, by Fred D. Cotanch of Freeville, Tompkins county. It alleged that the fence of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern branch) along his property was in bad condition. A copy of the complaint was sent to the company, which answered stating that "we have communicated direct with Mr. Cotanch and notified him that we planned to rebuild his fence during the coming week." A copy of this answer was sent to the complainant and the case was closed.

II.

IN THE MATTER OF THE COMPLAINT OF W. K. SQUIER AND OTHERS,
OF SYRACUSE, AGAINST THE SYRACUSE RAPID TRANSIT RAILWAY
COMPANY.

December 22, 1898.

This complaint was filed with this Board on August 1, 1898. It alleged poor condition of the roadbed and poor service furnished by the Syracuse Rapid Transit Railway Company on the East Genesee street division of its railroad. A copy of the complaint was forwarded to the company, which answered contravening the allegations of the complaint. A copy of the answer of the company was forwarded to the complainants, who were informed that a hearing in the matter would be given by the Board if requested. After further correspondence, and no request for a hearing having been received, the case was closed.

III.

IN THE MATTER OF THE COMPLAINT OF F. N. DOUNCE, OF ELMIRA,
AGAINST THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD
COMPANY.

December 22, 1898.

This matter came to the Board in the form of a letter from F. N. Dounce of Elmira, making certain inquiries as to alleged discrimination in switching facilities and charges by the Delaware, Lackawanna and Western Railroad Company, in the handling of coal at Elmira, and alleging discrimination by the same company in freight rates on bituminous coal from Corning to Elmira. After correspondence with the company and the complainant, and after consideration by this Board, the matter was closed.

IV.

IN THE MATTER OF THE COMPLAINT OF GEORGE E. ORAM AGAINST
THE PROSPECT PARK AND CONEY ISLAND RAILROAD COMPANY.

December 22, 1898.

Under date of October 12th, 1898, George E. Oram, a resident of Kensington, in the city of New York, borough of Brooklyn, complained to the Board that the Prospect Park and Coney Island Railroad Company was not running sufficient trains to accommodate the public. The complaint was, subsequently, joined in by others. On February 13th, 1896, this Board, upon complaint of residents, recommended that certain additional trains be run on said railroad. At that time the company complied with the recommendation. The complainants in this case ask specifically that this service be again given and that additional trains be added. The company answered that the traffic is essentially summer traffic, bringing its company within the provisions of section 21 of the Railroad Law, which permits such a company to cease operations, except during the months of June, July, August and September; that the business during the winter months is not sufficient to "pay the actual expense of operating one train" between the points in question; that the territory is supplied by other companies with transportation facilities. The complainants replied to the answer of the company. A hearing in the matter was given in the city of New York, on December 6th, at which Patrick J. O'Beirne and George C. Eldridge appeared for the complainants; A. A. Gardner for the company. The electrical expert of the Board reports that there are two

electric railroad lines which can be used by the people of Kensington, one operated by the Coney Island and Brooklyn Railroad Company, which is parallel to and less than one-half mile from the Prospect Park and Coney Island Railroad; that this electric railroad is operated on a fifteen minutes schedule until 1.20 a. m., and on a thirty minutes schedule from that hour until morning; that the Nassau Electric Railroad Company operates a railroad at Kensington, but about a mile from the steam railroad station, and that the Nassau Company's schedule is fifteen minutes until one o'clock a. m., when cars cease running until morning.

From the facts presented at the hearing, and from those reported by its inspector, the Board concludes that it would not be justified, at this time, in compelling the Prospect Park and Coney Island Railroad Company to operate more trains. When the recommendation of the Board was made in 1896 conditions were different than at present. It is apparent that the section of territory which asks this accommodation is now fairly well served by the existing electric railroad lines, and that the operation of the steam railroad line is done at a loss. The complaint is dismissed.

V.

IN THE MATTER OF THE COMPLAINT OF THE CITIZENS' ASSOCIATION
OF BAY RIDGE AND FORT HAMILTON, NEW YORK CITY, AGAINST
THE BROOKLYN ELEVATED RAILROAD COMPANY.

December 22, 1898.

This complaint was filed with the Board on October 21, 1898. It alleges that the cars in trains of the Brooklyn Elevated Railroad Company, operated on its Fifth avenue line, are not properly lighted. Also, that there is a dangerous curve on its line at Thirty-seventh street and Third avenue. A copy of the complaint was sent to the company, which answered that the trains are properly lighted, and that the curve is not unsafe. The inspector of the Board made an inspection, and reported that the cars are lighted by the Howard lamp; that there are three lamps in some and four in others of the cars. That so far as the curve is concerned, it should be elevated somewhat more, and that no train should run faster than ten miles an hour in rounding it. A copy of the report of the inspector was sent to the company and his recommendations in reference to the curve were made the recommendations of this Board. The company replied, stating that "prompt measures will be taken to carry out the

recommendations of your Board." A hearing in the matter was given in the city of New York, on December 6th. R. J. Caldwell appeared for complainants; Frederick Uhlmann, receiver, for the company. Mr. Uhlmann stated that the company is actively engaged in making arrangements to operate its railroad by electricity, which, when completed, will result in the lighting of the cars by electricity.

Under the circumstances, as stated above, the Board does not deem that it should recommend that the company change its system of lighting cars at this time. Its inspector, however, will frequently investigate and report as to the condition of the lights in the cars, and if action by this Board is necessary, it will be taken.

Under date of August 7, 1899, Mr. Caldwell informed the Board that trains were being operated around the curve in question at a greater rate of speed than that recommended by the Board. The Board communicated with the company in reference to the matter, and the company answered, stating "That in addition to the signs requiring engineers and motormen to reduce speed to six miles per hour on the curve, special instructions have been issued and the matter will be followed up to see that they are complied with." A copy of this answer was transmitted to Mr. Caldwell, who replied, thanking the Board.

VI.

IN THE MATTER OF THE COMPLAINT OF JOHN H. HALPIN AGAINST THE MANHATTAN RAILWAY COMPANY.

December 22, 1898.

This complaint, dated "New York, December 1, 1898," was filed with this Board on December 3, 1898. It alleged that the Manhattan Railway Company was operating shuttle trains on Sixth avenue, New York city, between Forty-eighth and Fifty-eighth streets, during certain hours of the day, and alleged that this practice was dangerous. The electrical expert of this Board made an inspection of the operation of these trains, which were operated at night between 8:23 and 12:15, from the Fiftieth to the Fifty-eighth street terminus. He reported that "the operation of the shuttle train gives good satisfaction to the patrons of the road whose destination is Fifty-eighth street terminus."

The Board was unable to communicate with the complainant, inasmuch as a letter addressed to him at New York city was returned by the post-office authorities, and the matter was closed.

VII.

IN THE MATTER OF THE COMPLAINT OF I. FISCHER AGAINST THE
MANHATTAN RAILWAY COMPANY, OF NEW YORK CITY, AS TO THE
OPERATION OF ITS THIRD AVENUE LINE.

December 22, 1898.

This complaint was filed with this Board on November 17, 1898, by I. Fischer of New York city. The complainant alleged that the cars of the company on its Third avenue line were overcrowded during certain hours in the morning and evening. An inspection of the operation of trains on this line was made by the electrical expert of this Board, who made a report. A letter, of which the following is a copy, was sent to the complainant, and the case was closed.

I. FISCHER, Esq., 22 East One Hundred and Twenty-ninth St., Manhattan,
New York City.

DEAR SIR.—Enclosed herewith you will find an extract from the report of the electrical expert of this Board as to your complaint against the Manhattan Railway Company relative to overcrowding cars on its Third Avenue line during certain hours in the morning and evening. You will note that the expert states: "While realizing the justice of the complaint, I can offer no recommendation which would remedy it. * * * During the rush hours it would be almost a physical impossibility to keep people from overcrowding the elevated as well as the surface cars."

The Board keeps informed of the operations of the street and elevated railroads and is giving considerable attention to the overcrowding of cars, but, at the present time, sees no way of remedying the difficulty.

By the Board.

JOHN S. KENYON,
Secretary.

VIII.

IN THE MATTER OF THE COMPLAINT OF A. ERNEST, OF BROOKLYN,
AGAINST THE BROOKLYN ELEVATED RAILROAD COMPANY AND THE
LONG ISLAND RAILROAD COMPANY, AS TO TRAIN SERVICE.

December 22, 1898.

This complaint was filed with this Board on December 2, 1898, by A. Ernest of Brooklyn. It alleged the inadequacy of the service on the Brooklyn Elevated Railroad to Woodhaven. It also alleged the cessation of the rapid transit service on the Atlantic avenue division of the Long Island Railroad. It appearing that the service complained of was but a temporary arrangement, pending the construction (then under way) of a permanent connection between the elevated railroad and the Long Island Railroad, this Board did not proceed further in the matter.

IX.

IN THE MATTER OF THE COMPLAINT OF LEANDER BRINK, OF MIDDLETOWN, AGAINST THE MIDDLETOWN-GOSHEN TRACTION COMPANY.

January 6, 1899.

This complaint was filed with this Board on November 9, 1898, by Leander Brink of Middletown. It alleged that about one-half mile of the Middletown-Goshen Traction Company's railroad, in the vicinity of land owned by the complainant, had been abandoned and the track taken up. It appearing that a suit at law, which involved the matter, was pending and that the company was in the hands of a receiver, the complainant was notified that the Board would not proceed further in the matter.

X.

IN THE MATTER OF THE COMPLAINT OF MESSRS. CANDEE & BROWN, OF SYRACUSE, AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

January 13, 1899.

This complaint was filed with this Board on March 11, 1898, by Messrs. Candee & Brown of Syracuse, fruit dealers. It alleged that the New York Central and Hudson River Railroad Company charged complainants on a shipment of oranges from Syracuse to Auburn for a weight of eighty pounds per box, whereas the actual weight did not exceed sixty-nine pounds, and also alleged that this was the general practice of this company and other companies throughout the State. A copy of the complaint was sent to the company, which answered stating that charging for eighty pounds weight per box of oranges, in small lots, was the practice of railroads throughout the State, under the rules of the Official Classification Committee, with which committee, it appeared, the complainants had been in communication in regard to the matter. After considerable correspondence, a letter was received from the company stating that the Official Classification Committee had considered the question at a recent meeting, and did not deem it expedient to recommend any change in the classification of the property in question. A copy of this letter was sent to the complainants on November 14, 1898, and they were informed by letter that this Board would give them a hearing if desired. The complainants not replying to this letter, the case was closed on January 13, 1899.

XI.

IN THE MATTER OF THE COMPLAINT OF MRS. J. A. McDONALD, OF VARNA, TOMPKINS COUNTY, AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO FENCES.

January 13, 1899.

This complaint was filed with this Board on November 3, 1898. It alleged that the fences of the Lehigh Valley Railroad Company along complainant's land were in poor condition. A copy of the complaint was sent to the company, which replied that the matter "will have prompt attention." A copy of this answer was sent to complainant, who made no reply, and the case was closed.

XII.

IN THE MATTER OF THE COMPLAINT OF THE NEW LOTS IMPROVEMENT ASSOCIATION AGAINST THE NASSAU ELECTRIC RAILROAD COMPANY.

January 18, 1899.

This complaint was laid before this Board orally, on October 26, 1898, by a committee of the New Lots Improvement Association of Brooklyn. The allegation was that the Nassau Electric Railroad Company had failed to construct a railroad in certain streets, for which route it was alleged the company held a franchise. The company answered that upon most of the route referred to, the streets had not been graded and upon a portion, about midway of the route, one of the streets had not been opened. An inspection of the route was made by an inspector for this Board, who reported that for almost the entire distance of the proposed route the streets were not graded and that in some places the manholes of sewers were five feet above the level of the ground. Under the circumstances, no further action by this Board seemed to be justified, and the case was closed.

XIII.

IN THE MATTER OF THE COMPLAINT OF WILLIAM R. BARR AGAINST THE SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD COMPANY.

January 18, 1899.

This Board received on January 3, 1899, an inquiry from William R. Barr of New York city, as to the details of the amount

of income received by the Syracuse, Binghamton and New York Railroad Company from use of track and use of equipment, as reported by it in its annual report. The company was notified of the inquiry and furnished the information, which was transmitted to the inquirer.

XIV.

IN THE MATTER OF THE COMPLAINT OF THE NEW LOTS IMPROVEMENT ASSOCIATION AGAINST THE KINGS COUNTY ELEVATED RAILWAY COMPANY.

February 15, 1899.

This complaint was laid before this Board orally, on October 26, 1898, by a committee of the New Lots Improvement Association of Brooklyn. The allegation was that some of the trains of the company at night, were not run beyond Eastern Parkway station; that passengers wishing to go beyond that station were compelled to alight and wait for a succeeding train, and that there was no shelter at the station. The complainants asked that the operation of trains be changed so that those which stopped at the Eastern Parkway station would be run through. The company answered that one set of its trains ran only to Eastern Parkway station and one set ran through, making a train every three minutes; that a person wishing to go through need not board a train destined only to Eastern Parkway, but by waiting three minutes could get a through train. After correspondence, and a report upon the situation from an inspector for this Board, the company notified the Board that the Eastern Parkway station had been boarded up, thus securing shelter, and that the interior arrangements had been altered so as to admit of twenty-five additional passengers. The matter was thereupon closed.

XV.

IN THE MATTER OF THE COMPLAINT OF D. F. ESTES, OF HAMILTON, AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

February 15, 1899.

This complaint was filed with this Board on December 30, 1898, by D. F. Estes of Hamilton, Madison county. It alleged that the complainant was overcharged for three passenger tickets from Albany to Hamilton, in that he was charged eighty-seven cents for each ticket, as the fare from Utica to Hamilton, on the

New York, Ontario and Western Railway, the regular fare being fifty-eight cents. The company answered that the rate paid by complainant was the regular rate charged by the New York, Ontario and Western Railway Company prior to a reduction of fare by it, and that the tickets were sold in ignorance of the fact that a change in rate had been made, and that eighty-seven cents for each ticket was reported to the New York, Ontario and Western Company. A copy of this answer was sent to complainant, and no reply being received, the case was closed.

XVI.

IN THE MATTER OF THE COMPLAINT OF GEORGE B. PATERSON
AGAINST THE LEHIGH VALLEY RAILROAD COMPANY.

March 2, 1899.

This complaint was filed with this Board on December 27, 1898, by George B. Paterson of Burdett, Schuyler county. It alleged that the Lehigh Valley Railroad Company prior to about November 15, 1898, ran two local passenger trains between Geneva, N. Y., and Sayre, Pa., every week day, and that on or about that time the passenger train leaving Geneva about 7.15 p. m. was discontinued, resulting in inconvenience to the traveling public. The company answered admitting that the train referred to had been discontinued, stating as a reason therefor that there was not sufficient travel by it to compensate for its operation. A copy of the answer of the company was sent to the complainant, who made a reply thereto, but did not ask for a hearing. The case was closed.

XVII.

IN THE MATTER OF THE COMPLAINT OF S. ETTA SMITH AGAINST
THE NEW YORK AND OTTAWA RAILROAD COMPANY.

March 8, 1899.

This complaint was filed with this Board on February 24, 1899, by S. Etta Smith of Santa Clara, Franklin county, N. Y. It alleged that certain employees in the train service, of the New York and Ottawa Railroad Company were being overworked. A copy of the complaint was sent to the company, which answered

denying the allegations of the complainant. A copy of the company's answer was sent to the complainant, and, as nothing further was heard from the complainant, the case was closed.

XVIII.

IN THE MATTER OF THE COMPLAINT OF F. H. T. HORSFIELD, OF
CAMBRIDGE, AGAINST THE FITCHBURG RAILROAD COMPANY.

March 29, 1899.

This complaint was filed with this Board on February 21, 1899. It alleged lack of accommodation for waiting passengers at the Eagle Bridge station of the Fitchburg Railroad, in that the passenger platform was not covered. A copy of the complaint was sent to the company, which answered, stating that the matter would have due attention. An inspector for this Board made an inspection of the point in question and reported, recommending that a cover be erected over a sufficient part of the existing platform to protect waiting passengers from storm and inclement weather. A copy of this report was sent to the company, with a letter making the inspector's recommendation that of this Board. A letter was received from the company, stating that a structure corresponding to the one recommended by the inspector "is about to be built at that point."

XIX.

IN THE MATTER OF THE COMPLAINT OF A. B. OTTAWAY AGAINST THE
LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD COMPANY.

March 29, 1899.

Under date of March 11, 1899, A. B. Ottaway, an attorney of Westfield, N. Y., wrote to the Board on behalf of several employees of the Lake Shore and Michigan Southern Railroad, complaining as to the company's overworking men in the freight train service. A copy of the complaint was sent to the company, which answered denying the allegation, and giving the rules of the company as to resting time for enginemen and trainmen. A copy of this answer was sent to the complainant, and, nothing further having been heard from him, the case was closed.

XX.

IN THE MATTER OF THE COMPLAINT OF THE NORTHRUP GLOVE MANUFACTURING COMPANY, OF JOHNSTOWN, AGAINST THE FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD COMPANY.

March 29, 1899.

This complaint was filed with this Board on March 23, 1899, by the Northrup Glove Manufacturing Company of Johnstown, N. Y. It states that "I am advised that the Fonda, Johnstown and Gloversville Railroad Company is charging 25 cents freight on all cases of merchandise weighing less than 100 pounds, from this city to Fonda, a distance of six miles." A copy of the complaint was sent to the company, which answered stating that the information in the complaint was correct, the charge being the company's minimum charge for long and short hauls; that while this was the minimum charge, the first-class rate from Johnstown to Fonda was only 8 cents per hundred, and that, consequently, a shipment of about 310 pounds would be subject to a charge of only 25 cents. A copy of this answer was sent to the complainant, and, nothing further having been heard from it, the case was closed.

XXI.

IN THE MATTER OF THE COMPLAINT OF G. P. KELLY, OF NEW YORK CITY, AGAINST THE UNION RAILWAY COMPANY.

April 5, 1899.

This complaint was filed with this Board on November 23, 1898, by G. P. Kelly of New York city. The complainant asked that the Union Railway Company be compelled to provide waiting cars at the various points on its line in the borough of the Bronx where it transfers passengers, as shelter for such passengers. The complainant was notified that a similar complaint had been investigated by this Board previously, and the complaint dismissed. He replied, stating that, in his opinion, arrangements should be made by the company for the use as a waiting room for "transfer" passengers, of a small building situated at the Boulevard and One Hundred and Thirty-eighth street. The Board communicated with the company upon the subject of the use of this small building as a waiting room, and the company notified the Board that it had been endeavoring to negotiate with the owner of the building for such use, but had failed. Under these circumstances, the matter was closed.

XXII.

IN THE MATTER OF THE COMPLAINT OF W. F. PERSONS, OF DELEVAN, CATTARAUGUS COUNTY, AGAINST THE WESTERN NEW YORK AND PENNSYLVANIA RAILWAY COMPANY.

April 5, 1899.

Under date of January 3, 1899, W. F. Persons of Delevan, Cattaraugus county, wrote this Board, stating that newspapers published in Buffalo were carried in the baggage cars of the Western New York and Pennsylvania Railway Company free of charge; that these newspapers were delivered to customers by news agents, or might be forwarded through the United States mail at the fourth-class rates of one cent per pound; that he, the complainant, published newspapers that were forwarded through the United States mail at pound rates at offices other than where the papers were printed, and that the railway company refused to carry his newspapers free. He complained that this was discrimination. After correspondence with the company, it answered that "There is no ground for Mr. Persons's claim that we discriminate against him. We carry no newspapers for any publisher that are to be entered at the post-office as second-class matter, such as Mr. Persons desires to have done." A copy of this answer was sent to the complainant, who made a reply. The complainant was notified that if he desired a hearing, one would be given him in Albany. He made no reply to this notification, and the case was closed.

XXIII.

IN THE MATTER OF THE COMPLAINT OF R. W. SHERMAN, OF GLENS FALLS, AGAINST THE DELAWARE AND HUDSON COMPANY, AS TO ALLEGED OVERCHARGE IN FREIGHT RATES.

April 5, 1899.

This complaint was filed with this Board on March 3, 1899, by R. W. Sherman of Glens Falls. It alleged overcharges by the Delaware and Hudson Company in shipment of goods, in two instances, from Pennsylvania to Glens Falls. A copy of the complaint was sent to the company, which answered denying liability in one case, where the overcharge amounted to 17 cents, and denying overcharge in the other. The matter appearing to be one of interstate commerce, the shipments originating in Pennsylvania, the Board suggested to the complainant that he seek redress either through the shipper or the initial line taking the shipment.

XXIV.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF HECTOR AND NORTH HECTOR AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO FREIGHT RATES ON GRAPES.

April 11, 1899.

This complaint was filed with this Board on March 7, 1898. It alleged that the Lehigh Valley Railroad Company was charging residents of Hector and North Hector and vicinity excessive freight rates on grapes. A copy of the complaint was sent to the company and its answer received, a copy of which was sent to complainants. The complainants, not replying, were asked if they desired a hearing, to which inquiry there was no reply. Subsequently, and on February 4, 1899, a similar complaint was received from residents of Hector, North Hector and the vicinity. The Board thereupon wrote the representative of the complainants the following letter:

ALBANY, February 4, 1899.

W. C. HUFF, Esq., Hector, Schuylcr Co., N. Y.

DEAR SIR.—The petition of yourself and others, as to rates on fruit and lambs has been received. Last winter, a similar complaint was made by yourself and others, and a copy sent to the Lehigh Valley Railroad Company and its answer received. A copy of this answer was sent to Mr. Charles A. Sloan, who presented your complaint to the Board. Enclosed herewith is a copy of this answer.

So far as the matters complained of being interstate commerce and therefore not under the jurisdiction of this Board, is concerned, I am directed by the Board to say that if you desire, it will present such interstate matters to the Interstate Commerce Commission at Washington. So far as shipments within this state are concerned, the Board desires that you furnish it with the names of the shipping points and where consigned. It would, perhaps, be well for you to give the shipping point and the point to which consigned, where the shipment passes out of this state en route. In other words, the Board desires to thoroughly investigate the subject of your complaint, and asks you for as exact information as you may be able to furnish of the transactions you complain of.

Very truly yours,

JOHN S. KENYON,

Secretary.

To this letter no reply was received, and the Board having heard nothing more in the matter, the case was closed.

XXV.

IN THE MATTER OF THE COMPLAINT OF ROBERT E. ANTHONY, JR., AGAINST THE BROOKLYN AND BRIGHTON BEACH RAILROAD COMPANY.

May 3, 1899.

On April 6, 1899, this Board received a letter from Robert E. Anthony, Jr., of Brooklyn, inquiring as to certain matters in con-

nection with change of motive power on the Brooklyn and Brighton Beach Railroad from steam to electricity, in regard to stoppage of operation during such change, in regard to flagmen at crossings, and in regard to brakes proposed to be used on the electric cars. Mr. Anthony was informed of the law on the subject of his inquiries, and the Board directed one of its inspectors to make an inspection in the matter of flagmen at crossings. The inspector reported, recommending that trains be operated over the branch line between Prospect street and the Long Island Railroad Company's freight yards, with a man preceding each train over the crossings of the city streets between these points. This recommendation was made the recommendation of the Board, and the company notified. The company replied that it had given instructions that a flagman between the points named must precede each train, as recommended.

XXVI.

IN THE MATTER OF THE COMPLAINT OF THE BOARD OF SUPERVISORS
OF ALLEGANY COUNTY AGAINST THE ERIE AND THE WESTERN
NEW YORK AND PENNSYLVANIA RAILROAD COMPANIES.

May 24, 1899.

This complaint was filed with this Board on February 3, 1899. It alleged that proper water-closets were not maintained by the Erie Railroad Company and the Western New York and Pennsylvania Railway Company at certain stations on their lines in Allegany county. Copies of the complaint were sent to the companies. The Erie Railroad Company answered that it was moving in the matter of remedying the cause of complaint as rapidly as possible. The Western New York and Pennsylvania Railway Company answered, contending that there was no cause for complaint, so far as it was concerned. The case was closed.

XXVII.

H. P. BEARDSLEY AGAINST THE LONG ISLAND RAILROAD COMPANY.

June 14, 1899.

Under date of May 31, 1899, H. P. Beardsley of New York city, complained that on the night of the 30th of May a train upon which he left Rockaway Beach was excessively crowded and

operated without regard to the rights of the public. A copy of the complaint was sent to the company, which answered, stating that as the 30th of May was Decoration day, the travel was very large; that owing to an accident there had been some delay, and that after the trains began running again the people overcrowded those started first. A copy of this answer was sent to the complainant, who replied stating that it was satisfactory, and thanked the Board.

XXVIII.

E. M. PETTIS AGAINST THE LEHIGH VALLEY RAILROAD COMPANY,
AS TO FENCES.

June 15, 1899.

This complaint was filed with this Board on April 11, 1899, by E. M. Pettis of South Cortland, Cortland county. It alleged that the fences of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern branch) along his farm were in very poor condition. A copy of the complaint was sent to the company, and an answer was received, stating that its fence repairers were at work and that Mr. Pettis's fence would be given attention. This is one of a number of complaints against the Lehigh Valley Railroad Company, as to the condition of the fences on its Elmira, Cortland and Northern branch, and the company, in reply to the letters of the Board upon the subject, states that it is proceeding as rapidly as possible to complete the repair of fences on this branch. A report made by Commissioner Baker of this Board, and a general recommendation on the subject, will be found under this title, in the matter of the complaint of M. J. Robertson.

XXIX.

IN THE MATTER OF THE COMPLAINT OF KATE DAY, OF CORTLAND,
CORTLAND COUNTY, AGAINST THE LEHIGH VALLEY RAILROAD
COMPANY, AS TO FENCES.

June 15, 1899.

This complaint was filed with this Board on May 13, 1899, by Kate Day of Cortland, Cortland county. It alleged that the fences of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern branch) were in poor condition. A copy of the

complaint was sent to the company, and an answer was received, stating that the company's fence repairers were at work and the fence would be repaired as soon as it could be reached.

XXX.

IN THE MATTER OF THE COMPLAINT OF IRA DWIGHT, OF FREEVILLE, TOMPKINS COUNTY, AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO FENCES.

June 15, 1899.

This complaint was filed with this Board on May 29, 1899, by Ira Dwight of Freeville, Tompkins county. It alleged that the fences of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern branch) along complainant's land were in poor condition. A copy of the complaint was sent to the company, and an answer was received, stating that "we are making every effort to get the line well fenced as early as possible, we are using the best wire fencing that we know of, and as fast as a fence is built our neighbors are well pleased with it."

XXXI.

IN THE MATTER OF THE COMPLAINT OF WILLIAM C. SMYTH, OF BROOKLYN, AGAINST THE NASSAU ELECTRIC RAILROAD COMPANY.

July 18, 1899.

This complaint was filed with this Board on January 10, 1899, by William C. Smyth. It alleged that many persons residing on and near Marcy avenue, in the city of Brooklyn, were disturbed and annoyed by the unnecessary noise of cars of the Nassau Electric Railroad Company running on that avenue, many of which, the complainant alleged, seemed to have very flat wheels. A copy of the complaint was sent to the company. An inspection of the cars of the company operating on Marcy avenue, was made by the electrical expert of this Board, who found that the complaint was justified in that a large number of such cars did have flat wheels. A copy of the report of the electrical expert was sent to the company, with the recommendation that the cause of complaint be removed. The company notified this Board, under date of February 7, 1899, that "we have taken steps to remove the cause of the unusual disturbance, and trust that

hereafter the people on Marcy avenue will not have any cause for complaint." Under date of June 4, 1899, Mr. Smyth notified the Board that the cause of complaint had not been removed. The company was notified, and answered that the question of flat wheels was receiving careful attention, and that its general superintendent had been requested to see that the Marcy avenue cars be given particular attention. A copy of this letter was sent to the complainant, and, no further complaint being received, the case was closed.

XXXII.

IN THE MATTER OF THE COMPLAINT OF AMANDA JOHANSON AGAINST THE CENTRAL CROSSTOWN RAILROAD COMPANY AND THE METROPOLITAN STREET RAILWAY COMPANY.

July 18, 1899.

This complaint was filed with this Board on February 11, 1899. It alleged that the Central Crosstown Railroad Company and the Metropolitan Street Railway Company were violating section 109 of the Railroad Law, in relation to the use of "center-bearing" rails by street surface railroad companies, on portions of their lines. The electrical expert of the Board made an inspection of the points where it was alleged "center-bearing" rails had been used in violation of the law, and a report. A copy of this report was transmitted to the companies, which were requested to inform the Board what their practice was in regard to replacing "center-bearing" rails. The Metropolitan Street Railway Company answered for itself and the Central Crosstown Railroad Company, denying that it had violated the law. A copy of this answer was sent to the complainant, and nothing further having been heard from the complainant, the case was closed.

XXXIII.

IN THE MATTER OF THE COMPLAINT OF HARRISON GILMORE & SON, OF UTICA, AGAINST THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY.

July 18, 1899.

This complaint was filed with this Board on April 18, 1899, by Harrison Gilmore & Son of Utica, N. Y. It alleged that complainants desired to furnish coal to two knitting mills at Orisk-

any Falls, not more than twenty miles south of Utica, on the Utica branch of the New York, Ontario and Western Railway, but that the company demanded one dollar per ton for said distance, or five cents per ton per mile, whereas coal was being carried from the west for about one-half of a cent per ton per mile. A copy of the complaint was sent to the company, which answered that the rate of one dollar per ton is the regular tariff rate. A copy of the company's answer was sent to the complainants, with a letter stating that, if they desired a hearing before this Board, one would be given them. No reply having been received to this letter, the case was closed.

XXXIV.

IN THE MATTER OF THE COMPLAINT OF S. D. HAVILAND, OF WEST BROOKVILLE, SULLIVAN COUNTY, AGAINST THE PORT JERVIS, MONTICELLO AND NEW YORK RAILROAD COMPANY.

July 18, 1899.

This complaint was filed with this Board on June 8, 1899, by S. D. Haviland, of Westbrookville, Sullivan county. It alleged that but one train each way, was operated over the Summitville branch of the Port Jervis, Monticello and New York Railroad; that but one gang of men were at work on the road, and intimated that if the roadbed were put in proper condition, more trains would probably be operated over this branch. A copy of the complaint was sent to the company, which answered that but one train was being run over the branch and, that, only at a rate of speed of eight miles an hour, for the reason that the road was in such a condition when the (then) new management assumed control, that it was unsafe to run trains any faster. The answer also asserted that the new management was at work repairing the road. An inspection of the Summitville branch was made by an inspector for this Board, who reported recommending that no additional trains be operated and that no greater rate of speed than eight miles an hour be maintained, until such time as the condition of the roadbed, bridges, etc., should be greatly improved, and that the work of putting in new ties and repairing structures be hastened. A copy of this report was sent to the company with a letter making the recommendations of the inspector the recommendations of the Board. A copy of the report of the inspector was also sent to the complainant, who replied. Subsequently, two other inspections of the Summitville branch were made by the inspector, who reports

that considerable progress has been made in the direction of improving its physical condition, and that the rate of speed might safely be increased to twenty miles per hour, except that until new girder bridges are put in, the speed crossing the A-truss and trussed stringer bridges be not greater than ten miles per hour.

XXXV.

IN THE MATTER OF THE COMPLAINT OF W. G. PALMER, OF NORTH TONAWANDA, AGAINST THE SILVER LAKE RAILWAY COMPANY.

July 18, 1899.

This complaint was filed with this Board on July 13, 1899, by W. G. Palmer, of North Tonawanda. It alleged that the Silver Lake Railway Company refused to deliver shipments of lumber, consigned to complainant at Perry, to other persons, upon printed orders from complainant to the company directing the delivery of the consignments to such persons. A copy of the complaint was sent to the company, which answered that it objected to delivering shipments which were consigned to complainant, simply on a printed order from complainant; that it desired either the surrender of the original bill of lading or an order over the written signature of complainant. A copy of this answer was sent to the complainant with a letter stating that it was the opinion of the Board that the position of the company, as stated above, was not unreasonable. The complainant replied stating that he was willing to sign the orders for delivery in writing instead of having his name printed thereon, and the case was closed.

XXXVI.

IN THE MATTER OF THE COMPLAINT OF THE DELAWARE AND HUDSON CANAL COMPANY AGAINST THE TROY CITY RAILWAY COMPANY.

August 16, 1899.

Under date of March 21, 1899, the Delaware and Hudson Canal Company notified this Board that frequent complaints had been made to the company, of difficulties encountered by people crossing its bridge between Green Island and Troy, from electricity which it alleged came from the appliances of the Troy City Railway Company which operates a railroad on said bridge. The electrical expert of the Board made an inspection and report, stating that he had made suggestions to the officers of the com-

panies of improvements which could be made to remedy the difficulties. Under date of July 21st, the electrical expert reported that he had made another inspection of the bridge and found that the cause of complaint had been removed.

XXXVII.

IN THE MATTER OF THE COMPLAINT OF ELIZABETH S. PEASE AGAINST
THE TROY CITY RAILWAY COMPANY.

August 16, 1899.

This complaint was filed with this Board on March 17, 1899, by Elizabeth S. Pease of Troy. It alleged that a bridge in the city of Cohoes, over the Mohawk river, across which the cars of the Troy City Railway Company were operated, was unsafe. An inspection of the bridge was made by a civil engineer for this Board, who reported, recommending that certain changes and repairs be made to the bridge, and suggesting that it should be replaced. The bridge being owned by the city of Cohoes, the officials of that city, as well as the railroad company, were notified of the engineer's report, and a copy of his report was forwarded to each. The Board recommended to the company that the repairs and changes suggested by the engineer be made, so far as they could be made by the company, the bridge, as stated, being owned by the city. The Board suggested that the company confer with the mayor of the city, in the matter, and stated that unless the bridge was strengthened or repaired at once, action would be taken to compel cessation of operation of trolley cars over it. The city closed the bridge until repairs were made. Thereafter precautions were taken by the company in the operation of cars over it. A contract has been executed by the city for the erection of a new bridge at the point in question.

XXXVIII.

IN THE MATTER OF THE COMPLAINT OF JOHN A. CIPPERLY AND
OTHERS, OF TROY, AGAINST THE TROY CITY RAILWAY COMPANY.

August 16, 1899.

This complaint was filed with this Board on May 20, 1899, by John A. Cipperly and others, of Troy. It alleged that the Albia branch of the Troy City Railway was not equipped and operated so as to provide for the proper security and accommo-

dation of the public, making, in detail, allegations to sustain the complaint. A copy of the complaint was sent to the company, which answered denying the allegations. The electrical expert of the Board made an inspection of the portion of the railroad in question and a report which did not sustain the allegations of the complaint. He recommended, however, that derailing switches be placed in the tracks on a heavy grade on a portion of the line. This recommendation was made the recommendation of the Board, and the company notified.

XXXIX.

IN THE MATTER OF THE COMPLAINT OF LEWIS M. SELKIRK, OF THE TOWN OF SCHODACK, RENSSELAER COUNTY, AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, AS TO FARM CROSSING.

August 16, 1899.

This complaint was filed with this Board on July 17, 1899, by Lewis M. Selkirk of the town of Schodack, Rensselaer county. It alleged that complainant was the lessee of a farm situated in said town about one and a quarter miles below the village of Castleton, and that the lands of said farm were crossed by the tracks of the New York Central and Hudson River Railroad Company; that the grades of a farm crossing of the railroad were such as to prevent him from hauling full loads of produce from one part of the farm to another. A copy of the complaint was sent to the company, which answered that the matter of improving these grades would be immediately attended to. After further correspondence with the complainant and the company in reference to the matter, the Board received a letter from the complainant, of which the following is a copy:

ALBANY, N. Y., August 1, 1899.

To the State Board of Railroad Commissioners, Capitol, Albany, N. Y.:

GENTLEMEN.—It is with pleasure I report that the grade of the crossing complained of by me has been changed and the work has been completed to my entire satisfaction. Large stone well laid, topped by smaller broken stone and gravel and sand and extended from the tracks of the H. R. R. R. to a considerable distance into the Schodack creek, has given to the crossed road a grade up which I can now haul with ease over one ton of produce at one load.

Please accept my thanks for your prompt and efficient service in this matter, by which I am able to save labor and time and expense in the haulage of my produce from my island lands, and that, too, at the commencement of my busy season.

Very respectfully.

(Signed)

LEWIS M. SELKIRK.

XL.

IN THE MATTER OF THE COMPLAINT OF S. F. SMITH, OF CLINTON CORNERS, DUTCHESS COUNTY, N. Y., AGAINST THE POUGHKEEPSIE AND EASTERN RAILWAY COMPANY, RELATIVE TO THE SETTING OF FIRES.

August 16, 1899.

This complaint was filed with this Board on July 3, 1899. It alleged that sparks from locomotives owned by the Poughkeepsie and Eastern Railway Company, running through complainant's farm, had caused fires. A copy of the complaint was sent to the company, which answered that, owing to the dry season, some fires had been set, including a fire on the farm of Mr. Smith. The answer stated, however, that the company had received no bill for damages from Mr. Smith, and that if it had, "it would have been settled to his satisfaction." A copy of this answer was sent to the complainant, and, nothing further being heard from him, the matter was closed.

XLI.

IN THE MATTER OF THE COMPLAINT OF IRELAND BROTHERS, OF JOHNSTOWN, AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

August 16, 1899.

This complaint was filed with this Board on July 28, 1899, by Ireland Brothers of Johnstown. It alleged that the New York Central and Hudson River Railroad Company would not receive goods at Fonda shipped by complainants, owing to the kind of packing case in which the goods were shipped, and alleged that this was a discrimination against complainants, and that other shippers in Johnstown used exactly the same sort of packing case. The company answered denying the allegations and stating that a complaint had been received by it from complainants in regard to the matter, and that instructions had been given the company's agent at Fonda to accept their shipments, "as their method of strapping the cases now seems to properly protect the property." A letter was received from complainants stating that they wished to withdraw the complaint, as the matter had been adjusted, "so that it is now very satisfactory to us." The case was thereupon closed.

XLII.

IN THE MATTER OF THE COMPLAINT OF M. J. ROBERTSON, OF ETNA,
AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO CONDI-
TION OF FENCES.

August 16, 1899.

This complaint was filed with this Board on August 5, 1899, by M. J. Robertson of Etna, Tompkins county. It alleged that the fences of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern branch) along his farm were in very poor condition. A copy of the complaint was sent to the company. The company answered, in general, in regard to complaints as to the condition of fences along this branch, that it was proceeding as rapidly as possible to complete the repair of fences. In this matter, as well as in similar complaints against the Lehigh Valley Railroad Company, an investigation was made by Commissioner Baker of the Board, who made the following report:

OWEGO, N. Y., November 6, 1899.

J. S. KENYON, *Secretary, Albany, N. Y.*:

MY DEAR SIR.—Referring to complaints relative to fences against the L. V. on Elmira & Cortland Division, I have been over the line and investigated the situation. After close inspection I believe that 70% of the fences on this line between Elmira and its northern terminus are in bad repair and there should be at least fifty miles of fence built between now and August 1st. There should also be at least 10,000 fence posts put in the old wire fence to give protection to the land owners.

The country along the line is used almost entirely for agricultural purposes and the people have been very patient in this matter. I would recommend that the President of the Lehigh be advised of the recommendations made and also that he be requested to furnish with the least possible delay posts to repair the old wire fence.

During the past season twenty-four miles of fence have been built and this has been more substantial and a better fence than any heretofore. Please take this up promptly with the company.

Yours truly,

FRANK M. BAKER.

A copy of this report was sent to the company with the following letter:

ALBANY, November 16, 1899.

ALFRED WALTER, Esq., *President Lehigh Valley R. R. Co., 26 Cortland St., Manhattan, New York City.*:

DEAR SIR.—As you are probably aware, this Board during the past year has been in receipt of a number of complaints from residents along the Elmira, Cortland & Northern Branch of the Lehigh Valley Railroad, relative to the condition of the fences of the railroad company. Commissioner Baker of this Board, has made an inspection of the fences on this Branch, and a copy of his report is enclosed herewith.

Will you please communicate with this Board as to the steps taken and to be taken by the company to put these fences on its Branch in good condition, as required by section 32 of the Railroad Law?

By the Board.

JOHN S. KENYON.

Secretary.

The company replied as follows:

NEW YORK, November 29, 1899.

JOHN S. KENYON, Esq., *Secretary, Board of Railroad Commissioners, Albany, N. Y.*:

DEAR SIR.—In reply to your communication of the 16th inst., enclosing report by Commissioner Frank M. Baker of the condition of the fences along the right of way of our Elmira & Cortland Branch, I wish to state that this matter has had our careful consideration for some time past, and we have been endeavoring to repair and renew the fences along this part of our line as rapidly as possible.

During the calendar year of 1899, estimating the month of December, we will have erected 33½ miles of fencing, and since we have acquired the above line we have erected 65½ miles of new fencing and put in 26,300 fence posts.

It is our present intention during the coming year to provide for 50 miles of new fencing and about 20,000 new fence posts.

I trust this information will be entirely satisfactory to your Board.

Yours truly,

ALFRED WALTER,
President.

XLIII.

IN THE MATTER OF THE COMPLAINT OF THE TAXPAYERS' NON-PARTISAN ASSOCIATION, OF COLLEGE POINT, AGAINST THE NEW YORK AND QUEENS COUNTY RAILWAY COMPANY, RELATIVE TO TRANSPORTATION FACILITIES.

August 16, 1899.

This complaint by the Taxpayers' Non-Partisan Association of College Point, was filed with this Board on June 26, 1899. It alleged that the service, on that portion of the New York and Queens County Railway between the junction of Broadway and Lawrence street, Flushing, and the terminus of the railway at the Ninety-ninth Street ferry, College Point, was not adequate. A copy of the complaint was sent to the company, which answered, denying the allegation. An inspection and report in the matter were made by the electrical expert of the Board, who suggested that the Board recommend an increase in the service. This recommendation, in detail, was made the recommendation of the Board, and the company was notified. The company replied that it would "see if we can arrange a schedule which will gratify the desire of the general public." The case was closed.

XLIV.

IN THE MATTER OF THE COMPLAINT OF GEORGE M. NICHOLS, OF BROOKLYN, N. Y., AGAINST THE LONG ISLAND RAILROAD COMPANY, RELATIVE TO THE COLLECTION OF EXCESSIVE MILEAGE COUPON TICKETS.

August 16, 1899.

This complaint was filed with this Board on July 21, 1899. It alleged that the Long Island Railroad Company collected an extra mile coupon to Freeport from Bedford station, Brooklyn, twenty-three mile coupons being collected instead of twenty-two, the complainant alleging that the distance is twenty-two miles. The company answered stating that "we have adopted rules now, however, which will prevent similar complaint to that made by Mr. Nichols, in the future." A copy of this answer was sent to the complainant, who stated that "the reply is very satisfactory as far as it relates to the future," but claimed that the excess mileage previously collected should be returned. He was informed that the Board had no jurisdiction to compel the company to refund any excess which had been collected, and the case was closed.

XLV.

IN THE MATTER OF THE COMPLAINT OF L. L. JOHNSON, OF NORTH CHATHAM, AGAINST THE HUDSON LIGHT AND POWER AND RAILROAD COMPANY, AS TO A CROSSING BY SAID RAILROAD OF A HIGHWAY NEAR COMPLAINANT'S RESIDENCE.

August 16, 1899.

This complaint was filed with this Board on August 4, 1899, by L. L. Johnson of North Chatham, N. Y. It alleged that the Hudson Light and Power and Railroad Company was constructing a railroad which proposed to cross at grade a highway near his residence, and that such crossing would be a dangerous one. A copy of the complaint was sent to the company, which was notified that if the railroad was proposed to be operated by steam, it would come under the provisions of section 60 of the Railroad Law, relative to crossings at grade of highways by steam railroads. The company answered that the railroad in question was a street surface railroad, and that it was constructed and was to be operated as a street surface railroad. An inspector from this Board was sent to the point in question, who reported that the railroad was a street surface railroad, and that the crossing in question was not more dangerous than the average grade

crossing. This being the case, the provisions of section 60 of the Railroad Law did not apply, and the complainant was notified to that effect. The case was closed.

XLVI.

IN THE MATTER OF THE COMPLAINT OF LOUIS MANZ, OF ROCHESTER,
AGAINST THE ROCHESTER AND IRONDEQUOIT RAILROAD COMPANY,
LESSEE OF THE ROCHESTER AND LAKE ONTARIO RAILWAY.

August 21, 1899.

This complaint was filed with this Board on June 27, 1899, by Louis Manz of Rochester, N. Y. It alleged that on June 24, 1899, engine No. 31, drawing a train on the Rochester and Lake Ontario Railway (leased to the Rochester and Irondequoit Railroad Company), was in such condition that it was unfit to be operated. The company replied denying the allegations of the complaint. An inspection of the road and equipment was made by the electrical expert of the Board, who reported that there was no ground for the complaint, but that he found that some of the brake shoes on the cars operated by the company were badly worn. The Board recommended that these brake shoes be replaced with new ones, and notified the company to that effect. The company replied stating that its superintendent had been instructed to comply with the recommendation at once.

XLVII.

IN THE MATTER OF THE COMPLAINT OF H. W. PETTIBONE, OF FREEVILLE, TOMPKINS COUNTY, AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO FENCES.

August 23, 1899.

This complaint was filed with this Board on April 22, 1899, by H. W. Pettibone of Freeville, Tompkins county, N. Y. It alleged that fires had been communicated to his property from locomotive engines of the Lehigh Valley Railroad (Elmira, Cortland and Northern branch), for which he desired recompense, and that the fences of the company along his land were in poor condition. The complainant was informed that this Board had no jurisdiction in the matter of his claim against the company for damage caused by fires; that this was a matter for the courts. So far as the fencing was concerned, the Board communicated with the

company, and the company answered stating that a force was at work rebuilding the fences on this branch, and that "I think we should be able to have his fence rebuilt in a very short time." This is one of a number of complaints as to fences along this branch of the Lehigh Valley Railroad, and the Board has communicated with the company relative to the reconstruction of the fences, as shown by correspondence in the matter of the complaint of M. J. Robertson, preceding.

XLVIII.

IN THE MATTER OF THE COMPLAINT OF LEWIS D. BROWNING, OF SCIO, AGAINST THE ERIE RAILROAD COMPANY, AS TO FARM CROSSING.

August 24, 1899.

This complaint was filed with this Board on August 9, 1899, by Lewis D. Browning of Scio. It alleged that the Erie Railroad had raised its roadbed through his farm near Scio station, to such an extent that the farm crossing of the railroad on his farm had been made a difficult one, and asked that he be given an undercrossing in place of a crossing at grade. A copy of the complaint was sent to the company, which answered that the crossing in question was an ordinary farm crossing; that the approaches to the crossing were being filled, so as to make an easy approach; that the company had reached an amicable settlement with the complainant in the matter and that work had been commenced to place the crossing in first-class condition. The complainant was notified to this effect, and replied, again stating that he desired an undercrossing. The Board having no power to compel the construction of a farm undercrossing, the case was closed.

XLIX.

IN THE MATTER OF THE COMPLAINT OF THE CITIZENS' IMPROVEMENT ASSOCIATION, OF HOLLIS, L. I., AGAINST THE LONG ISLAND ELECTRIC RAILWAY COMPANY.

August 24, 1899.

This complaint of the Citizens' Improvement Association of Hollis, L. I., by H. B. Salisbury, attorney, was filed with this Board on May 26, 1899. It alleged that "the Long Island Electric Railroad Company, under your jurisdiction, is charging two

five-cent fares for the haul from or to Hollis, connecting with the Kings County Elevated at Liberty avenue, Brooklyn, where another fare is charged to the Brooklyn bridge. The distance is less than five miles for which two fares are charged, to the great detriment of our village, which is perhaps one-quarter of a mile beyond the place where the second fare is collected. As we are now wholly within the city of New York, the Association believes your honorable body has jurisdiction and power to regulate such charges." The company answered that, "the rates of fare stated by your correspondent are correct and in accordance with the terms of our franchises. A lower rate of fare cannot be charged owing to the small and scattered population. That branch of our road does not pay even at the rates of fare complained of."

A hearing in the matter was given by the Board in New York city on July 24th. H. B. Salisbury and others appeared for the complainants; Weller and Gillen appeared for the company. The complainants contend that the charging by the company of two five-cent fares is a violation of section 101 of the Railroad Law. The second fare is charged on a portion of the railroad which was constructed and operated without the limits of a city or village prior to the creation of the present city of New York. This portion of the railroad is now within the city of New York, but the Board does not believe that the acquirement of this territory by the city of New York brought the company under that provision of section 101, which prohibits the charging of more than a single fare of five cents for one continuous ride in a city or village by street railroad companies incorporated as this company was. The complainants ask the Board to request legislative action toward the reduction of the fare to five cents. Nothing has been produced before the Board to justify it in so doing. There is some contention that the company is not entitled to operate a portion of its railroad as at present located, but the papers in the case show that this question has been disposed of in a proceeding in the Supreme Court.

For the reasons given, the complaint is dismissed.

L.

IN THE MATTER OF THE COMPLAINT OF W. H. PEARSON, OF ETNA,
AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO
FENCES.

August 25, 1899.

This complaint was filed with this Board on July 19, 1899, by W. H. Pearson of Etna, Tompkins county. It alleged that the

fences of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern branch) along his farm were in poor condition. The complaint also alleged that there was a rank growth of weeds on the right of way of the company through his farm. A copy of the complaint was sent to the company, which answered that the weeds had been cut, and that the fences would be repaired. This is one of a number of complaints against the Lehigh Valley Railroad Company, as to the condition of the fences on its Elmira, Cortland and Northern Branch, and action has been taken by the Board in the matter, as shown in statements in the matter of preceding complaints.

LI.

IN THE MATTER OF THE COMPLAINT OF OGDEN & CLARK AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO FREIGHT RATES.

September 5, 1899.

This complaint was filed with this Board on April 11, 1899. It alleged that freight rates on the Mohawk & Malone Railway (leased to the New York Central and Hudson River Railroad Company) on feed and grain, from Utica to all stations between Forestport and Malone, were excessive, and were more than the proportion of the through rate from the west on similar commodities received for shipment to the same points on said railway; also, that Buffalo feed and grain dealers were allowed to unload through grain cars from the west at Buffalo and reload them with ground feed or flour, and ship them east on through billed rates. A copy of the complaint was sent to the company, which answered that "there are no grounds for the charge made by them of unjust discrimination in rates on the part of this company," and that "the rules of this company do not permit a change of rating on its road as described in Ogden & Clark's complaint." After correspondence with complainants and the company, a hearing was given by the Board in Albany, on Wednesday, June 14th. Frank C. Ogden appeared for complainants. Ira A. Place and Samuel Goodman appeared for the company. The case was closed after the receipt of the following letters by this Board:

NEW YORK CENTRAL & HUDSON RIVER RAILROAD CO.,
New York, August, 26th, 1899.

MR. JOHN S. KENYON, *Secretary Board of Railroad Commissioners, Albany,*
N. Y.:

DEAR SIR.—I have the honor to acknowledge receipt of your esteemed favor bearing date of August 23rd, and desire to say in reply that the New York Central & Hudson River Co. have given imperative directions

not to receive feed or flour at Buffalo for points on the Mohawk & Malone Division when milled in transit, or in other words when grain is shipped from the west and converted into feed or flour at Buffalo or some other point west. This is what we agreed to do on June 14th last, at a hearing held before your honorable Board on that date.

Directions have further been given to reduce the rate on grain, flour and feed in carloads, from Utica to points north of White Lake, where the rate had formerly been 10 cents per 100 lbs. to 8 cents.

I trust that this action will meet with the approval of the Honorable Board of Railroad Commissioners, and will, at the same time, satisfy the complainants.

Yours truly,
S. GOODMAN,
A. T. M.

UTICA, N. Y., August 29, 1899.

MR. JOHN S. KENYON, *Secretary.*

DEAR SIR.—Yours of the 28th at hand and noted. The change of rate is highly satisfactory to us and we wish to thank your board for bringing this about.

Yours respectfully,
OGDEN & CLARK.

LII.

IN THE MATTER OF THE COMPLAINT OF M. N. STEVENS AGAINST THE
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

September 5, 1899.

This complaint was filed with this Board on August 19, 1899. It alleged that there were no toilet conveniences at the station of the New York Central and Hudson River Railroad Company, at Lowville (Utica and Black River branch). A copy of the complaint was sent to the company, which answered, stating that toilet conveniences had been supplied at this station.

LIII.

IN THE MATTER OF THE COMPLAINT OF JACOB R. SHIPHERD, OF
RICHMOND HILL, NEW YORK CITY, AGAINST THE LONG ISLAND
RAILROAD COMPANY, AS TO NOISE OF LOCOMOTIVES.

October 4, 1899.

This complaint was filed with this Board on August 5, 1899, by Jacob R. Shipherd, of Richmond Hill, New York city. It alleged that locomotives of the trains of the Long Island Railroad Company made unnecessary noise by clanging of bells and sounding of whistles in Richmond Hill. A copy of the complaint was sent to the company, which answered that the sound-

ing of the bell and whistles was necessary owing to the number of crossings at grade. The Board did not feel justified in recommending that warning signals by bell or whistle from locomotive engines approaching grade crossings in Richmond Hill should be discontinued or reduced in volume, and the case was closed.

LIV.

IN THE MATTER OF THE COMPLAINT OF A. B. TAYLOR, OF FOWLERVILLE, LIVINGSTON COUNTY, AGAINST THE GENESEE AND WYOMING RAILWAY COMPANY.

October 4, 1899.

This complaint was filed with this Board on September 6, 1899, by A. B. Taylor, of Fowlerville, Livingston county. It alleged that no passenger trains were being operated by the Genesee and Wyoming Railway Company. The company was notified and asked to answer the complaint. It answered that it had completed repairs to its trestles and roadbed, and would start running passenger trains on October 2d. Subsequently, the company notified the Board that it had actually begun running such trains on that date, and enclosed a copy of its timetable.

LV.

IN THE MATTER OF THE COMPLAINT OF H. M. BROWNING, OF WELLSVILLE, AGAINST THE ERIE RAILROAD COMPANY, AS TO FARM CROSSING.

October 4, 1899.

This complaint was filed with this Board on September 5, 1899, by H. M. Browning, of Wellsville. It alleged that the approaches to a farm crossing of the Erie Railroad on complainant's farm were too steep, and asked that either an undercrossing be provided at the point in question or that the grade of the approaches should be decreased. A copy of the complaint was sent to the company, which answered that an undercrossing was impracticable and that a good crossing at grade had been provided. The complainant was notified to this effect, and he not having replied, and this Board having no power to compel the construction of a farm undercrossing, the case was closed.

LVI.

IN THE MATTER OF THE COMPLAINT OF WILLIAM ABBATT AGAINST THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY, AS TO NOISE MADE BY TRAINS.

October 4, 1899.

This complaint was filed with this Board on September 5, 1899, by William Abbatt, of Westchester. It alleged that trains in the freight yard of the New York, New Haven and Hartford Railroad Company, near his residence in Westchester, made more noise than was necessary. A copy of the complaint was sent to the company, which answered, stating that "Special effort will be made to keep the noise down to a minimum," and copies of orders to employees to this effect were transmitted to this Board. Mr. Abbatt again complained to the Board as to the matter and was informed that "In view of the orders issued by the company (copies of which were sent you from this office) to its employees, forbidding the making of unnecessary noise, the Board does not see what further steps can be taken in the matter."

LVII.

IN THE MATTER OF THE COMPLAINT OF J. H. ROWE, OF NORTH CHATHAM, AGAINST THE BOSTON AND ALBANY RAILROAD COMPANY, AS TO FREIGHT RATES.

October 4, 1899.

This complaint was filed with this Board on September 9, 1899, by J. H. Rowe, of North Chatham. It alleged that the Boston and Albany Railroad Company had charged him on a shipment of apple barrels from Chatham to Niverville freight rates on an estimated weight of each barrel of forty pounds, whereas the barrels weighed but $17\frac{1}{2}$ pounds. A copy of the complaint was sent to the company, which answered, stating that its published tariff rate on empty apple barrels provided an estimated weight of forty pounds per barrel, and that on this basis a shipment of empty apple barrels from Chatham to Niverville would be billed at seven cents per one hundred pounds or 2.8 cents per barrel. A copy of the company's answer was sent to the complainant, who made a reply thereto. It appearing to the Board that the charge made by the company was not unreasonable, the complaint was dismissed.

LVIII.

**IN THE MATTER OF THE COMPLAINT OF OSCAR K. LYLE AND OTHERS
AGAINST THE NASSAU ELECTRIC RAILROAD COMPANY.**

October 4, 1899.

This complaint was filed with this Board on August 5, 1899, by Oscar K. Lyle and others, of Brooklyn. It alleged that there was a withdrawal of cars on the Nassau Electric Railroad on its Seventh avenue route to Fulton Ferry. A copy of the complaint was sent to the company, which answered that "I have, however, taken the matter up and if there is any lack of service will see that it is attended to." A copy of the answer of the company was sent to complainants. An inspection and report, as to the matter was made by the electrical expert of the Board. A hearing in the matter was given in the city of New York, on Saturday, October 14. Oscar K. Lyle appeared for complainants, and C. A. Collin appeared for the company. It appearing that the service had been resumed by the company, the matter was closed.

LIX.

**IN THE MATTER OF THE COMPLAINT OF CHARLES A. HERPICH
AGAINST THE KINGS COUNTY ELEVATED RAILROAD COMPANY, AS
TO RATES OF FARE.**

October 14, 1899.

This complaint was filed with this Board on September 6, 1899, by Charles A. Herpich, of New York city. It alleged that the Kings County Elevated Railroad Company had charged complainant ten cents for a trip from Park Row, New York, to Sheepshead Bay, but that before arriving at Sheepshead Bay the complainant decided not to alight there but to go through to Manhattan Beach, and that an additional fare of ten cents was collected for the distance between Sheepshead Bay and Manhattan Beach. A copy of the complaint was sent to the company, which answered that the service by the Kings County Elevated Railroad between Park Row, New York, and Manhattan Beach had been discontinued. The complainant was notified that the Board would give him a hearing in the matter in New York city, on Saturday, October 14, but as he failed to appear at the hearing, the case was closed.

LX.

IN THE MATTER OF THE COMPLAINT OF G. A. PAGE, OF BROOKLYN,
AGAINST THE BROOKLYN UNION ELEVATED RAILROAD COMPANY,
AS TO RATES OF FARE, AND AGAINST THE NASSAU ELECTRIC RAIL-
ROAD COMPANY, AS TO TRANSFERS.

October 14, 1899.

This complaint was filed with this Board on September 5, 1899. It alleged that the Brooklyn Union Elevated Railroad Company charged a fare of ten cents between the New York terminus of its railroad and Fort Hamilton avenue, Brooklyn. Complaint was also made that the Nassau Electric Railroad Company refused to give transfers from its Fulton avenue line to its Fifteenth street line. A copy of the complaint was sent to the companies, which answered:

In regard to rate of fare charged on the elevated railroad, would say there is but a single fare of five cents charged between any two points on the road with an added privilege of transfer at various intersections. Ft. Hamilton Avenue, referred to in Mr. Page's letter, is on the Prospect Park & Coney Island Railroad over which the electric trains of the elevated railroad are operated and on which road, prior to its acquisition by this company, a separate and very much higher rate of fare was being charged. At the present time and ever since electric trains have been operated to Coney Island the fare has been ten cents—five cents on each road.

In reference to transfers between the Church Avenue and Fifteenth Street lines, we have never issued this transfer.

A copy of this answer was sent to Mr. Page. A hearing in the matter was given by the Board in the city of New York, on October 14. Mr. Page appeared in person, and C. A. Collin appeared for the companies. The complainant having expressed himself satisfied with the explanation made by the representative of the companies, the matter was closed.

LXI.

IN THE MATTER OF THE COMPLAINT OF B. OAKLEY BALDWIN AGAINST
THE HERKIMER, MOHAWK, ILION AND FRANKFORT ELECTRIC
RAILWAY COMPANY.

October 31, 1899.

This complaint was filed with this Board on August 25, 1899, by B. Oakley Baldwin, of Frankfort. It alleged that a portion of the railroad of the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company was not in proper physical condition. An

inspection of the entire railroad was made by the electrical expert of this Board, who reported, making recommendations of improvements in the roadbed and cars of the company. These recommendations were made the recommendations of the Board, and the company was notified. The company informed the Board that the recommendations would be complied with.

LXII.

IN THE MATTER OF THE COMPLAINT OF JOHN JOPP AGAINST THE
ERIE RAILROAD COMPANY, AS TO FENCES AND CATTLE GUARDS.

October 31, 1899.

This complaint was filed with this Board on October 4, 1899, by John Jopp, of Caledonia. It alleged that fences and cattle-guards of the Erie Railroad Company at his farm in the town of Caledonia were not kept up. A copy of the complaint was sent to the company which answered stating that instructions had been given, "to repair and put in satisfactory condition, the cross fences and cattle-guards complained of. * * *."

LXIII.

IN THE MATTER OF THE COMPLAINT OF WILLIAM HUNT AGAINST THE
LEHIGH VALLEY RAILROAD COMPANY.

October 31, 1899.

This complaint was filed with this Board on June 13, 1899, by William Hunt, of the town of Cortlandville, Cortland county, through his attorney, Irving H. Palmer. It alleged that the fences of the Lehigh Valley Railroad Company (Elmira, Cortland and Northern Branch), along his farm were in very poor condition. After correspondence with the company, a letter was received from it stating that "I find in looking into this matter that owing to the large amount of fencing that is being done on our Elmira and Cortland Branch, it became necessary to order additional fencing materials, and that as soon as they are received, the repairs to Mr. Hunt's fence will be undertaken." A copy of this answer was sent to the attorney for complainant. This is one of a number of similar complaints against the Lehigh Valley Railroad Company as to the condition of the fences on its Elmira, Cortland and Northern Branch. A report made by Commissioner Baker of this Board, and a general recommendation on the subject, will be found under this title, in the matter of the complaint of M. J. Robertson.

LXIV.

IN THE MATTER OF THE COMPLAINT OF ARTHUR BIRD, OF SIDNEY,
AGAINST THE DELAWARE AND HUDSON COMPANY.

November 16, 1899.

Arthur Bird, of Sidney, in 1894, complained that there were no toilet facilities at the passenger station of the Delaware and Hudson Company in that village. The company answered that it would provide an out-house immediately and would provide closet facilities if a sewer in the village was extended to its station. On November 4, 1899, this Board received a letter from the complainant, stating that the sewer had been extended and that the company had failed to provide closet facilities. A copy of this letter was sent to the company, which replied, stating "I have given instructions to have toilet facilities supplied for that station forthwith." A copy of this letter of the company was sent to the complainant and he was asked to inform the Board when this was done. He informed the Board, under date of December 6, 1899, that the company had "a force of men at work on the toilet rooms in their station at this place."

LXV.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF VERNON
AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD
COMPANY, AS TO TRAIN ACCOMMODATIONS.

November 16, 1899.

This complaint was filed with this Board on August 3, 1899. It alleged that the train service on the West Shore Railroad (leased to the New York Central and Hudson River Railroad Company), to and from Utica, was inadequate. A copy of the complaint was sent to the company, which answered that it was giving Vernon as good train service as the conditions warranted.

LXVI.

IN THE MATTER OF THE COMPLAINT OF E. R. VAN WAGENEN, OF
SCHENECTADY, AGAINST THE NEW YORK CENTRAL AND HUDSON
RIVER RAILROAD COMPANY.

November 16, 1899.

This complaint was filed with this Board on October 16, 1899, by E. R. Van Wagenen, of Schenectady. It alleged that he had

bought a ticket on the West Shore Railroad (leased to the New York Central and Hudson River Railroad Company) from South Schenectady to Fullers Station, and that he was compelled to alight about a quarter of a mile from Fullers Station, because the train did not proceed to the station, but turned on a branch in another direction. A copy of the complaint was sent to the company, which answered that the train in question was a milk train which runs on the West Shore Railroad to the Y, just west of Fullers Station, where it leaves the West Shore Railroad and runs over the Athens branch to Athens Junction, and into Albany over the New York Central and Hudson River Railroad; that it is very seldom there is a passenger for Fullers Station on that train, and that when there has been, it has been customary for them to alight at the Y track back of the station, upon a highway leading directly to the station and a short distance therefrom; that the company had issued instructions to cease selling tickets to Fullers Station on this train. A copy of the answer of the company was sent to complainant, and nothing further having been heard from him, the case was closed.

LXVII.

IN THE MATTER OF THE COMPLAINT OF GILBERT M. VANDERVOORT
AGAINST THE LEHIGH VALLEY RAILROAD COMPANY, AS TO THE
CONDITION OF THE FENCES OF THE COMPANY ALONG HIS LANDS.

November 16, 1899.

This complaint was filed with this Board on June 16, 1899, by Willis C. Ellis, of Shortsville, attorney for Gilbert M. Vandervoort. It alleged that the fences of the Lehigh Valley Railroad Company along the lands of Mr. Vandervoort, near the village of Manchester, were in poor condition. A copy of the complaint was sent to the company, which answered that "the matter was given prompt attention and I understand the old fence was removed and a new one put in its place within the past week." A copy of this answer was sent to the complainant, who replied through his attorney that part of the fence had been reconstructed and part not, and also complained that the company had failed to construct cattle-guards at the farm crossing of Mr. Vandervoort. A copy of this second complaint was sent to the company, which answered that it had "arranged to give him everything in the way of fences, etc., to which he is entitled, and Mr. Vandervoort stated that the matter was in a shape satisfactory to him." A copy of this second answer was sent to the

complainant, who replied through his attorney, that the company had built a fence, which is satisfactory, but that no cattle-guards had been provided. The Board informed complainant that the law as to cattle-guards being provided at crossings, in its opinion, does not apply to farm crossings, and the case was closed.

LXVIII.

IN THE MATTER OF THE COMPLAINT OF THE WATER BOARD OF THE CITY OF AUBURN AGAINST THE AUBURN CITY RAILWAY COMPANY.

December 8, 1899.

This complaint was made to this Board under date of June 8, 1897. It alleged that electric current was escaping from the structure of the Auburn City Railway Company, thereby causing injury to the water pipes of the city through electrolysis. Certain recommendations were made in the matter by the Board and transmitted to the company. The company requested a hearing in the matter and a modification of the recommendations of the Board, which modification was refused. A hearing was set for Tuesday, September 6, 1898, and the attorney for complainants, Charles M. Baker, as well as the company, was notified of the date. A letter was received by the Board, stating that Mr. Baker was sick and asking that the hearing be postponed. This postponement the Board granted. Later the Board received a letter from Mr. Baker, asking as to what the procedure before the Board would be, to which letter this Board replied on May 29, 1899. The company having asked for a hearing, a date for hearing having been fixed, and an adjournment taken at the request of complainants, and the complainants not proceeding further in the matter, the case was again closed.

STATIONS AND STATION BUILDINGS.

I.

IN THE MATTER OF THE PETITION OF RESIDENTS OF GERMANTOWN,
COLUMBIA COUNTY.

January 13, 1899.

On April 27, 1898, a delegation of citizens from Germantown, Columbia county, N. Y., appeared before this Board, and asked that the Board take action looking to the erection of a station building by the New York Central and Hudson River Railroad Company at Germantown. The inspector for this Board visited Germantown and found that the pre-existing station had been burned, and that the substitute for a station was a passenger car. The Board recommended to the company that a suitable passenger station should be erected, and also that the freight station should be established east of the railroad, instead of where it was then located. The company answered that the matter of a freight and passenger station at Germantown was under consideration, and that the company proposed to erect a passenger and freight station. After considerable correspondence with the complainants and with the company, the company notified the Board that "the new station at Germantown has been in use for the past two months, and I believe it is satisfactory to everybody concerned."

II.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF VOORHEESVILLE, ALBANY COUNTY.

January 13, 1899.

On July 11, 1897, a petition was filed with this Board, signed by a number of business men of Voorheesville, Albany county, asking that a freight house be erected at the junction of the

West Shore Railroad and the Delaware and Hudson Canal Company's railroad, at Voorheesville. It developed that the companies could not agree upon a joint station, and the West Shore Company erected one for itself. Subsequently, further complaint was received that the Delaware and Hudson Canal Company had not erected a freight station. The Board again communicated with the company on the subject, and received a reply, stating "That this company have not erected a freight house at Voorheesville, but have made arrangements with the New York Central and Hudson River Railroad, lessees of the West Shore Railroad, for the joint use of their station at that point." A copy of this letter was sent to complainants.

III.

IN THE MATTER OF THE COMPLAINT OF C. E. WATKINS, OF MILLER PLACE, SUFFOLK COUNTY, AGAINST THE LONG ISLAND RAILROAD COMPANY, AS TO STATION AT THAT PLACE.

January 18, 1890.

This complaint was filed with this Board on September 28, 1898, by C. E. Watkins of Miller Place, Suffolk county. It alleged that the Long Island Railroad Company proposed to close its station at Miller Place, Suffolk county, for the winter. A copy of the complaint was sent to the company. Subsequently a petition was received from residents of the vicinity, stating that the station had been closed and asking that the company be compelled to reopen it. A copy of this petition was also sent to the company. The company answered that the complaint was without foundation; that the station was still maintained and that the station building was open and heated; that arrangements had been made for a man to look after the freight which the trainmen unload in the freight house; that the only change from conditions prevailing during the summer was that the telegraph operator and ticket seller was not on duty during the winter months. A copy of the company's answer was sent to the complainants, who replied thereto. The inspector for the Board was sent to the point in question and reported that there was no regular agent maintained at the station; that the mail carrier opened it from fifteen to twenty minutes before the arrival of each train, and that he had material at hand to build a fire, if necessary; that from the best information he could receive, the indications were that this station did very little business. A copy of the report of the inspector was sent to the com-

plainants, with a letter notifying them that if they desired a hearing, one would be given them in New York city. Nothing further having been heard from the complainants, the case was closed.

IV.

IN THE MATTER OF THE COMPLAINT OF F. E. TILLY AGAINST THE LONG ISLAND RAILROAD COMPANY, ALLEGING ABANDONMENT OF THE CITY LINE STATION ON THE ATLANTIC DIVISION OF SAID RAILROAD.

January 24, 1899.

This complaint was filed with the Board on October 3, 1898. It alleges that the Long Island Railroad Company has abandoned a station, formerly known as the City Line station, on the Atlantic division of its railroad, in Brooklyn. A copy of the complaint was sent to the company, which answered that the station had been moved back five blocks east of its former location, which change was occasioned by the installation of a new service via the Brooklyn Elevated Railroad, between Jamaica and Brooklyn. Subsequently, a petition from residents of Union Course and vicinity was filed with the Board in support of Mr. Tilly's complaint. Hearings in the matter were given in the city of New York on October 6th and December 6th. F. E. Tilly and George Buss appeared for complainants; A. A. Gardner for the Long Island Railroad Company; Frederick Uhlmann for the Brooklyn Elevated Railroad Company.

It appears that changes in the manner of operating the Long Island Railroad have been and are being inaugurated, so that its suburban service in the territory in question is and will be handled in connection with the Brooklyn Elevated Railroad. It is alleged by the company that the changing of the location of the City Line station was necessitated by the construction of a connection between its railroad and the Brooklyn Elevated Railroad. Section 34 of the Railroad Law provides that "no station established by any railroad corporation for the reception, or delivery of passengers or property, or both, shall be discontinued without the consent of the Board of Railroad Commissioners first had and obtained." No application was made to the Board by the company under this provision, and the Board, therefore, directs that the so-called City Line station of the Long Island Railroad Company, in the borough of Brooklyn, city of New York, be re-established.

The station was re-established, as directed.

V.

IN THE MATTER OF THE APPLICATION OF THE NEWBURGH, DUTCHESS AND CONNECTICUT RAILROAD COMPANY, UNDER SECTION 34 OF THE RAILROAD LAW.

January 24, 1899.

This application was filed with the Board on December 14, 1898. It asks that this Board consent that the Clove Branch Junction Station of the Newburgh, Dutchess and Connecticut Railroad Company may be discontinued as an agent station and continued as a "flag-stop" only. A hearing was given in the city of Albany on January 24th. Notice of this hearing was published, and posted at the station. G. Hunter Brown appeared for the railroad company; no one in opposition. From the facts presented to the Board in this matter it appears that the public will not be materially harmed by the granting of the application and the Board, therefore, under section 34 of the Railroad Law, consents to the discontinuance of the Clove Branch Junction Station of the Newburgh, Dutchess and Connecticut Railroad Company, as an agent station, on condition that it be continued as a "flag-stop" station.

VI.

IN THE MATTER OF THE COMPLAINT OF E. PLATT STRATTON, OF COLLEGE POINT, L. I., AS TO WAITING ROOM AT TRANSFER POINT.

January 25, 1899.

This complaint was filed with this Board on November 26, 1898, by E. Platt Stratton of College Point, L. I. It alleged that at a point on the Flushing line of the New York and Queens County Railway Company, at Lawrence street and Broadway, where passengers to and from College Point were transferred, there was no shelter for such passengers, and that, as many of the cars did not connect, passengers were compelled to wait in bad weather without shelter. A copy of the complaint was sent to the company, which answered. An inspection at the point in question and report were made by the electrical expert of the Board. The Board recommended that the company provide a suitable waiting room for passengers at the transfer point, Lawrence street and Broadway. After considerable correspondence, the electrical expert of the Board reported that the company had complied with the recommendation of the Board, and had established a waiting room at the transfer point, corner of Broadway and Lawrence street, Flushing.

VII.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 34 OF THE RAILROAD LAW, FOR CONSENT OF THIS BOARD TO THE DISCONTINUANCE OF A STATION ON ITS RAILROAD AT A POINT KNOWN AS SOUTH GREENFIELD.

May 24, 1899.

This application by the Long Island Railroad Company, was filed with this Board on May 3, 1899. It asks the consent of the Board to the discontinuance of the present station on its railroad at a point known as South Greenfield. It is proposed that a new station shall be established about sixteen hundred feet west of the present one. A hearing was given, after public notice, at the Fifth Avenue Hotel, in the city of New York, on Tuesday, May 16. A. A. Gardner appeared for the applicant; no one appeared in opposition. It seems to the Board that the application should be granted.

The Board, therefore, under section 34 of the Railroad Law, consents to the discontinuance of the station of the Long Island Railroad Company, as at present located, at a point known as South Greenfield, on condition that before the discontinuance of said station, a new station shall be established at the point proposed, viz: about sixteen hundred feet west from the present station.

VIII.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY UNDER SECTION 34 OF THE RAILROAD LAW.

June 29, 1899.

This application, under section 34 of the Railroad Law, was filed with this Board by the Long Island Railroad Company May 3, 1899. Said company asks the consent of the Board to the discontinuance of certain rapid transit stations on the Atlantic avenue division of its railroad at the following points, to wit: Chester Park, City Line, Norwood avenue, Rockaway avenue, Saratoga avenue, Ralph avenue, Troy avenue, Kingston avenue, Brooklyn avenue, Grant avenue, Vanderbilt avenue; the discontinuance of Bedford station and the stopping of all trains at Nostrand avenue; the discontinuance of Van Siclen avenue station, Pennsylvania avenue station and Howard House station and the opening of a new station in the vicinity of the three last named. A hearing in the matter was given in the city of New

York, on Tuesday, May 16, 1899, at 10 o'clock a. m., after due notice. A. A. Gardner appeared for the applicant; Samuel Hoff appeared for property owners in opposition to the abandonment of the Howard House station; F. E. Tilly, George Buss and Theodore Keindl in opposition. Communications in opposition to the abandonment of several of the stations were also received by the Board. Subsequently to the hearing, the Board inspected the location of these stations. This Board, on October 25, 1898, consented to the temporary abandonment of several of the stations named. It appeared at the hearing in this matter, and from inspections of the locality made by the Board, that the people in the vicinity of the present stations are well accommodated by existing electric and elevated railroads, and that the discontinuance of the stations is proposed in order to inaugurate a better class of service on the Long Island Railroad to and from points beyond. In the place of the Howard House, Pennsylvania avenue and Van Siclen avenue stations, the company, in a letter to this Board, under date of June 23, proposes to locate a new station midway between Linwood street and East New York, to wit: at Bradford avenue. This new station, it appears to the Board, will accommodate those now using the Howard House, Pennsylvania avenue and Van Siclen avenue stations.

It appears to the Board that the general public interests will be served by the discontinuance of the stations above named. The Board, therefore, hereby consents to the discontinuance of the stations on the Atlantic avenue division of the Long Island Railroad, known as Chester Park, City Line, Norwood avenue, Rockaway avenue, Saratoga avenue, Ralph avenue, Troy avenue, Kingston avenue, Brooklyn avenue, Grant avenue and Vanderbilt avenue. The Board also consents to the discontinuance of the Bedford station, on condition that all trains stop at Nostrand avenue. The Board also consents to the discontinuance of the Van Siclen avenue, Pennsylvania avenue and Howard House stations, on condition that the three latter named stations shall not be discontinued until a new station is established and in use at Bradford avenue.

IX.

IN THE MATTER OF THE COMPLAINT OF ABE STEIN, OF ARVERNE,
AGAINST THE LONG ISLAND RAILROAD COMPANY.

July 19, 1899.

This complaint was filed with this Board on July 13, 1899. It alleged that at Arverne, where the Long Island Railroad Com-

pany was operating a double track railroad, passengers had to cross one track or the other for the purpose of getting on or off trains, and suggested that the company should build an elevated station from one track to the other. A copy of the complaint was sent to the company, which answered, inclosing a copy of its rules for the government of employees at double track stations. A copy of the company's answer was transmitted to the complainant, with a letter from this Board stating that, under the circumstances, the Board would not feel justified in recommending a change in the station at Arverne.

X.

IN THE MATTER OF THE COMPLAINT OF FRANK K. BAXTER, OF
UTICA, AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER
RAILROAD COMPANY.

August 16, 1899.

This complaint was filed with this Board on January 9, 1899. It alleged that the passenger station on the West Shore Railroad (leased to the New York Central and Hudson River Railroad Company), known as "Utica," was in a dilapidated and unsafe condition. After considerable correspondence, the company applied to this Board, under section 34 of the Railroad Law, for consent to discontinue said station. The Board consented to such discontinuance, as shown by the order following, and Mr. Baxter's complaint was dismissed.

XI.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL
AND HUDSON RIVER RAILROAD COMPANY, LESSEE OF THE WEST
SHORE RAILROAD, UNDER SECTION 34 OF THE RAILROAD LAW.

August 16, 1899.

This application, under section 34 of the Railroad Law, was filed with this Board by the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, on June 20, 1899. The company asks the consent of the Board to the discontinuance of the station on the West Shore Railroad, known as "Utica." A hearing in the matter was given in the city of Albany, on Friday, August 4, 1899, after due notice. Ira A. Place appeared for the applicant; W. E. Lewis and Chap-

man C. Johnson, citizens of Utica, appeared in favor of the application; John L. Mahar for the Chamber of Commerce of Utica, also appeared in favor of the application; A. P. Case of Vernon, appeared by letter, in opposition. It appears that the station is but little used and that there is a station at or near South street on the West Shore Railroad, in the city of Utica, known as "East Utica." At the hearing, Mr. Mahar suggested that the station known as "East Utica" be changed to Seymour street.

From the statements made at the hearing, and after an inspection of the location of the present station, by a member of this Board, we are of the opinion that public interests will not suffer through the discontinuance of this station. The Board, therefore, under section 34 of the Railroad Law, hereby consents to the discontinuance of the station on the West Shore Railroad (leased to the New York Central and Hudson River Railroad Company), known as "Utica."

XII.

IN THE MATTER OF THE COMPLAINT OF F. W. SPRAGUE, OF HAILES-
BORO, ST. LAWRENCE COUNTY, AGAINST THE NEW YORK CENTRAL
AND HUDSON RIVER RAILROAD COMPANY.

August 16, 1899.

This complaint was filed with this Board on July 13, 1899, by F. W. Sprague of Hailesboro, St. Lawrence county, N. Y. It alleged that the New York Central and Hudson River Railroad Company had discontinued the services of a station agent at the station of the Rome, Watertown and Ogdensburg Railroad (leased to the New York Central and Hudson River Railroad Company) at Hailesboro. A copy of the complaint was sent to the company, which answered stating that it was not receiving enough money at said station to pay the salary of the agent. The inspector of the Board was sent to Hailesboro and made a report. From his report it appeared that trains stopped at the station to leave and receive passengers, the same as before the removal of the agent, and that the total receipts at the station were not sufficient to pay the agent's salary. The Board notified the company and the complainant that, under the circumstances, it would not feel justified in recommending that the agent be restored, and dismissed the complaint.

XIII.

IN THE MATTER OF THE COMPLAINT OF C. J. HOWDEN, OF FILLMORE, ALLEGANY COUNTY, AGAINST THE WESTERN NEW YORK AND PENNSYLVANIA RAILWAY COMPANY.

August 24, 1899.

This complaint was filed with this Board on June 22, 1899, by C. J. Howden of Fillmore, Allegany county, who stated that it was made at the request of several hundred of the residents of Fillmore and vicinity. It alleged that the passenger and freight station of the Western New York and Pennsylvania Railway Company at Fillmore, was not a proper one and was insufficient for the needs and comfort of the people using it. The inspector for the Board made an inspection at the point in question, and a report recommending that the present station building be given up entirely to freight, and that an addition, or a new building be erected of sufficient size to provide for office and waiting rooms large enough to properly accommodate the passengers reasonably expected at the station. A copy of this report was sent to the company, and the recommendations of the inspector made the recommendations of this Board. The company replied that "the matter of enlarging the station at Fillmore has been up for several years, and we have now decided to go ahead with the work." The complainant was notified to this effect. Under date of December 6, 1899, the company informed the Board that "our station at Fillmore is now being enlarged, and when the work is completed I think that everything will be found satisfactory."

XIV.

IN THE MATTER OF THE COMPLAINT OF C. W. WENTZ, OF MORELAND STATION, SCHUYLER COUNTY, AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY (FALL BROOK DIVISION).

October 16, 1899.

This complaint was filed with this Board on July 13, 1899, by C. W. Wentz of Moreland, Schuyler county. It alleged that the flag station on the Fall Brook division of the New York Central and Hudson River Railroad, at Moreland, had been discontinued and that trains did not stop on flag. A copy of the complaint was sent to the company and an answer received. Other persons made complaints as to the failure to stop trains on flag at

this station. After considerable correspondence in the matter, the stopping of trains on flag at Moreland was resumed, and the complainant notified the Board that "I, therefore, have no further reason for complaint, as long as this continues," and thanked the Board. Under date of October 1, 1899, the complainant notified the Board that under a new schedule which the company had put into operation, trains 1 and 4 did not stop at Moreland on flag, and asserted that these trains should stop. A copy of the complainant's letter was sent to the company, which replied that, "we are endeavoring with trains 1 and 4 to make better time and make connections so that passengers going from the principal stations, like Geneva, and connections with the New York Central main line, can get through to Philadelphia, Elmira, Corning and such points, with some degree of dispatch." Having in mind the general public interest, the Board notified complainants that "under the circumstances, it would not feel justified in recommending to the company that trains 1 and 4 be stopped, on flag, at Moreland station."

XV.

IN THE MATTER OF THE COMPLAINT OF NORMAN P. HEFFLEY AGAINST
THE BROOKLYN ELEVATED RAILROAD COMPANY, AS TO WITH-
DRAWAL OF AGENTS FROM CERTAIN OF ITS STATIONS.

November 16, 1899.

This complaint was filed with this Board on November 9, 1899. It alleged that the Brooklyn Elevated Railroad Company had withdrawn its ticket agents from certain stations. A copy of the complaint was sent to the company, and the complainant was notified to this effect and a date for hearing fixed. In reply the complainant notified the Board that "I did not intend my communication to be in the form of a complaint." The Board thereupon notified complainant and the company that the hearing would not take place and the matter was closed.

In the Matter of the Application of the Ulster and Delaware Railroad Company for the Consent of the Board to the Discontinuance of the Fair Street Station, on said Railroad, in the City of Kingston.

On January 6, 1898, this application was granted. The determination of the Board in this matter was reviewed by the Appellate Division, Supreme Court, third department, and said determination was sustained. An appeal was taken to the Court of Appeals, which affirmed the decision of the Appellate Division. The opinion of the Court of Appeals follows:

Appeals from an order of the Appellate Division of the Supreme Court in the third judicial department, entered January 9, 1899, affirming a determination of the Railroad Commissioners, granting leave to the Ulster and Delaware Railroad Company to abandon Fair street station in the city of Kingston.

This proceeding was initiated by the petition of three residents and freeholders of the city of Kingston to review by certiorari the proceedings and determination of the Board of Railroad Commissioners in relation to the abandonment of Fair street station in that city.

About the 6th of July, 1897, the relators presented their petition to the Board of Railroad Commissioners, alleging that the Ulster and Delaware Railroad Company proposed to abandon said station in violation of an agreement, and in disregard of the convenience of the public, and asking the Board to examine into the facts and prohibit the threatened abandonment.

A few days later the railroad company presented its petition to said Board asking leave to abandon said station. Answers having been interposed to both of these petitions, the proceedings were consolidated and heard as one. The Commissioners made a personal view of the locality affected, received the petitions of many individuals, both for and against the proposed change, swore and examined numerous witnesses produced by either side and finally granted the application of the railroad company.

The return shows that the tracks of the Ulster and Delaware Railroad Company extend from the city of Kingston, in the county of Ulster, to the village of Stamford, in the county of Delaware, a distance of seventy-four miles. The city of Kingston, shaped somewhat like a dumb-bell, embraces the former village of Rondout, on the Hudson river, and the former village of Kingston, connected by a long, narrow strip of territory occupied by buildings. The portions which formerly were villages are centers of population and of business, and since the construction of the railroad there has been one station at Rondout to accommodate the people living there, and another for a time at Higginsville, but in 1882 changed to Fair street, to accommodate those residing in the former village of Kingston. The change from Higginsville to Fair street was the result of an agreement made in 1881 between Thomas Cornell, as president of the railroad company, and a committee of citizens, of which the petitioners herein were members. That agreement was forthwith embraced in the following heading to a subscription paper, to wit: "Whereas, the Hon. Thomas Cornell, president of the Ulster and Delaware Railroad Company, has assured a committee that if the people would erect a depot building at the foot of Vorhees lane, or at a point near the head of Fair street, he would cause the trains of said road to stop at said depot for passenger purposes; in consideration thereof, we, the undersigned, do hereby agree to pay the sums set opposite our respective names for the purpose of erecting a depot building at the head of Fair street, and for constructing the roadway and other necessary work to complete the extension to the railroad at that point." This paper was signed by forty-seven persons and firms who subscribed, with one cash subscription, the sum of \$3,800, of which \$3,345 was collected and used for the purpose of extending Fair street to the railroad and erecting a depot at that point. Land was conveyed to the railroad company for a depot building and grounds, with a provision in the deed that when the land ceased to be used for that purpose it was to revert to the grantors. Subsequently the general action of the officers and directors of the railroad company, without special reference to the Fair street station, "was approved, ratified and confirmed" at an annual meeting of the stockholders.

For fifteen years after the construction of the depot, pursuant to said agreement, the passenger trains of the railroad company stopped at the Fair street station. This was an accommodation to a large number of people residing in the old village of Kingston and to a still larger number residing in various towns of Ulster and Delaware counties. This station was within 800 feet of the court house, clerk's office, surrogate's office, five banks,

many hotels, schools and places of business. There were, however, two other stations within the corporate limits of the city, one at the terminus in Rondout and the other at the junction of the Ulster and Delaware with the West Shore and the Walkill Valley Railroads, where there is a union depot. The station at Rondout is nearly three miles from the center of the former village of Kingston, and the union depot is about one mile therefrom, but is connected therewith by a street railroad. Neither of these stations accommodated many thousands of people, who were in the habit of getting on and off the cars at the Fair street station. Those from the country who wished to reach the court house or vicinity would be compelled, without the Fair street station, to pay more fare and stop at least a mile farther from the place where they wanted to go, while the inhabitants of the former village of Kingston, would have to go a mile out of their way to the union depot and pay fare on the railroad in order to ride back again to a point near their own homes, where for years they had been accustomed to take the cars. The aggregate loss of time and money each year would necessarily be large when the number of people thus inconvenienced is considered. The inconvenience to the railroad company is the expense of maintaining the Fair street station, which has become somewhat out of repair, and the interference with its business, especially the summer traffic, which is the chief part of its passenger business, by stopping its trains at Fair street.

The Railroad Commissioners granted the application of the railroad company, and gave as their main reason that a small local railroad should not be burdened with the expense of maintaining three stations for the use of a small city.

The determination of the Commissioners was affirmed by the Appellate Division, unanimously, and the relators appeal to this court.

VANN, J.: Authority for the discontinuance of the station in question is found in the Railroad Law, which provides that "no station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the board of Railroad Commissioners first had and obtained." (L. 1890, ch. 565, as amended by ch. 676, L. of 1892, § 34.)

It is further provided by section 157 of the same law, that "the Board shall have power to administer oaths in all matters relating to its duties, so far as necessary to enable it to discharge such duties, shall have general supervision of all railroads and shall examine the same and keep informed as to their condition, and the manner in which they are operated for the security and accommodation of the public and their compliance with the provisions of their charters and of law."

The principle to govern the action of the Commissioners, as laid down in section 161, is that if any change "in the mode of operating the road or conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public," they are required to give orders accordingly, and it is made "the duty of the corporation, person or persons owning or operating the railroad to comply with such decisions and recommendations of the board as are just and reasonable. If it fails to do so the Board" is directed to "present the facts in the case to the Attorney-General for his consideration and action, and" also to "report them in its annual or in a special report to the legislature."

By section 162, power is conferred upon the Supreme Court at Special Term, "in its discretion, in all cases of decisions and recommendations by the Board which are just and reasonable to compel compliance therewith by mandamus, subject to appeal to the General Term and the Court of Appeals, and upon such appeal, the General Term and the Court of Appeals may review and reverse upon the facts as well as the law."

By other sections, authority is conferred upon the Board to act in relation to questions arising between intersecting roads, the precedence of trains thereat, altering or reducing the rate of freight or fare, the erection of safeguards, interlocking switches and signal devices, consent to the construction of new railroads, the method of crossing streets by a new railroad or the crossing of existing railroads by new streets, the consolidation and lease of parallel lines, the change of motive power by street surface railroads and the like. (Railroad Law, §§ 35, 36, 38, 49, 50, 55, 57, 59, 59a, 60, 61, 62, 63, 66, 67, 68, 69, 80, 83, 100, 103, 150 to 166 inclusive.)

When the orders of the Board relate to the giving of permission to do or refrain from doing certain acts, nothing further is required to make the order effective, but when the orders are affirmative requirements directing certain things to be done they are in the nature of recommendations which may be enforced, if reasonable and expedient in order to promote the convenience of the public, by the Supreme Court at Special Term, subject in such cases to the right of appeal in the usual way, expressly conferred. Such appeals, however, are from the determination of the Special Term and not of the Commissioners. No right to review the determinations of the Commissioners is expressly conferred by statute, and the respondent insists that the action and decision of the Board as to the Fair street station were in the discharge of a legislative or ministerial function and hence not open to review by certiorari.

A common-law writ of certiorari may be issued to review the judicial determinations of inferior tribunals and officers acting judicially under the authority of a statute, to correct errors of law affecting the property or rights of the parties. (People ex rel. Corwin v. Walter, 68 N. Y. 403, 408; People ex rel. Burnham v. Jones, 112 N. Y. 597; People ex rel. Citizens' Gas Light Company v. Board of Assessors, 39 N. Y. 81, 88; People ex rel. Bodine v. Goodwin, 5 N. Y. 568; Wildy v. Washburn, 16 Johns. 49; Star v. Trustees of Rochester, 6 Wend. 564.) In consenting to the discontinuance of the station in question we think the Board of Railroad Commissioners acted judicially. As was said in People v. N. Y., L. E. & W. R. R. Co. (104 N. Y. 58, 65), "By creating, the statute recognizes the necessity for, such a tribunal to adjust conflicting interests and controversies between the people and the corporation. It has clothed it with judicial powers to hear and determine, upon notice, questions arising between these parties." The action of the Board clearly was not legislative, for it was not in the nature of making a law but of determining a controversy. It was not ministerial, because the Commissioners were not required by law to do a specified act in a specified way upon a given state of facts without regard to their own judgment as to the propriety of the act, and with no power to exercise discretion. (People ex rel. Harris v. Commissioners, 149 N. Y. 26.) It was, however, judicial, because the law impliedly required them to decide a question of fact and to exercise their judgment upon evidence in determining whether the consent should be given or not. The question was between the convenience of the public patronizing the station and the inconvenience to the railroad company in maintaining the station and stopping its trains thereat. While the statute mentions the public convenience only, in a broad sense, the convenience of the public includes the convenience of the railroad company also, because the real interest of the public cannot be promoted by imposing an unreasonable inconvenience upon the railroad. The question involved a wide range of investigation and was the subject of much conflicting testimony. A great variety of facts was proved tending strongly to show that the public convenience would be greatly promoted by the continuance of the station. Facts were also proved, tending to show inconvenience and expense to the railroad unless consent should be given to the discontinuance of the station. The Board had express power to subpoena witnesses, administer oaths and to conduct an investigation not only judicial in form, but in nature, and upon the evidence taken as well as upon their view of the locality to decide whether, under all the circumstances, the prayer of the citizens or of the cor-

poration should be granted. (Railroad Law, § 157.) While there is no express provision in the statute for notice to the citizens interested, there is an express provision for notice to the company, and, after the consolidation, the citizens were parties to the proceeding by virtue of their own prior petition. The Board could not proceed upon the petition of the citizens without notice to the corporation, and it wisely concluded that it should not proceed upon the petition of the corporation without notice to the citizens. We think that the proceedings of the Commissioners were subject to review by certiorari.

The Board properly received the contract between certain citizens and the railroad company in evidence, but it had no power to enforce that contract or set it aside. Its jurisdiction does not extend to the enforcement of contracts as such or to the award of relief for their violation. That power can be exercised only by the courts. Any attempt by the Commissioners to enforce the contract, as a contract, would have been illegal, and their omission to enforce it is no bar to an action by the parties aggrieved in the proper court. They do not constitute a court, although in many respects they act as judges. They have no inherent authority, but depend for their power upon the Legislature, which has not attempted to invest them with the function of granting or withholding relief based upon contractual obligations.

As has already been said, the determination made by the Commissioners involved the decision of a question of fact, which, under the Constitution, we have no power to review, as the affirmance by the Appellate Division was unanimous. (People ex rel. Manhattan R. R. Co. v. Barker, 152 N. Y. 417.) Upon the merits there is no question of law before us. No question is raised that is not necessarily determined by the decision of the question of fact. While the learned Commissioners may not have attached sufficient importance to the public convenience as compared with the corporate inconvenience, we cannot review their decision in that regard, but must accept it, approved as it has been unanimously by the Appellate Division, whether we approve of it or not.

The order should be affirmed, but without costs.

All concur.

Order affirmed.

CROSSINGS.

Under this and the succeeding title will be found all matters relating to railroad crossings, except accidents at crossings.

I.

IN THE MATTER OF THE APPLICATION OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, UNDER SECTION 36 OF THE RAILROAD LAW.

November 10, 1898.

This application, under section 36 of the Railroad Law, was filed with the Board on September 12, 1898. It asks the approval of the Board of an auto-pneumatic signal apparatus which is in use at the crossing of the railroads of the applicant and the Western New York and Pennsylvania Railway Company, in the city of Buffalo, and that the full stop and crossing on signal of trains may be discontinued.

An inspection of the crossing and of the signal apparatus was made by a member of the Board, who reported that the apparatus is satisfactory and that the application should be granted.

The application is, therefore, hereby granted, and "the full stop and crossing on signal" of trains at this crossing may be discontinued.

II.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF MADISON, IN THE COUNTY OF MADISON, UNDER SECTION 62 OF THE RAILROAD LAW.

November 11, 1898.

This petition, under section 62 of the Railroad Law, was filed with the Board on September 9, 1898. It alleges that public safety requires an alteration in the manner in which a highway,

known as the Oriskany Falls Road, crosses the railroad of the New York, Ontario and Western Railway Company, near Solsville, in said town, and asks that a portion of the highway be so altered in location as to discontinue two existing grade crossings of the railroad, known as the Hog's-back crossings. The petition is signed and verified by a majority of the members of the town board. Two inspections and reports of the situation at the crossings were made by the superintendent of the grade crossing bureau of this department. A public hearing, after notice as required by the statute, was given in the village of Madison, on Wednesday, October 12th, having been adjourned from Sidney, where no one appeared. The Board inspected the two crossings, the highway as existing, and the change proposed. The crossings are exceedingly dangerous; the view approaching the railroad from all directions, at each crossing, being totally obstructed, so that a train cannot be seen until a person is actually on the railroad track; the railroad being in a cut, a train cannot be heard approaching from any considerable distance. At the hearing, on the 12th of October, Allen Curtis and F. H. Benjamin appeared for the town board; and C. E. Knickerbocker for the railroad company. Evidence was taken as to the danger at the crossings. The railroad company did not oppose the application, so far as the opening of a new piece of highway from the present highway to the Fisk's Mill crossing is concerned, but did oppose the plan suggested by the town, to continue the new portion of highway past the Fisk's Mill crossing, about a mile and one-eighth, to a point where it would again join the highway as at present existing.

The propriety of closing the crossings is clear. The Board, however, does not determine that the new portion of highway should be continued beyond the Fisk's Mill crossing.

The Board determines, under section 62 of the Railroad Law, that public safety requires that the highway, known as the Oriskany Falls Road, in the town of Madison, in the county of Madison, shall be altered in location so that it shall not cross the railroad of the New York, Ontario and Western Railway Company, at the crossings known as the Hog's-back crossings, near Solsville, and that its new location shall be on the westerly side of said railroad, from a point on the existing highway to the Fisk's Mill crossing of said railroad, and that the crossings, known as the Hog's-back crossings, shall be closed and discontinued. A portion of the existing highway leading to the Hog's-back crossings shall be left open, and a portion abandoned. The changes to be made are shown on a blue print sketch attached hereto.

It is found to be impracticable to print the sketch referred to in the determination here.

After considerable correspondence with the railroad company and the town authorities, and after inspections of the crossings by a member of the Board and its inspectors, the Board modified its determination of November 11, so that the new portion of highway necessary to be constructed shall be as shown upon a blue print plan attached to a letter filed in this office, and gave notice to all persons interested, of such modification. At the time of writing this report, the work has been completed, with the result that three grade crossings of the railroad, two of them especially dangerous, have been abolished, and the greater part of the travel has been diverted from another grade crossing, which it was found impracticable to close at this time.

III.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF LIBERTY, IN THE COUNTY OF SULLIVAN, UNDER SECTION 62 OF THE RAILROAD LAW.

November 11, 1898.

This petition, under section 62 of the Railroad Law, was filed with the Board on August 27, 1898. It alleges that public safety requires an alteration in the manner in which a highway, known as the Parkville Road, in the town of Liberty, in the county of Sullivan, which has two branches, crosses the railroad of the New York, Ontario and Western Railway Company, at two points, known, respectively, as Francisco's and Hardenburgh's crossings, and asks that the said two crossings shall be closed and discontinued and the travel thereon diverted to a new overhead crossing, to be located between the two crossings named. This involves the opening of a new piece of highway, on the easterly side of the railroad. The petition is signed and verified by a majority of the members of the town board. Surveys of the locality and reports were made by the superintendent of the grade crossing bureau of this department. A public hearing, after notice as required by the statute, was given by the Board, in the city of New York, on Thursday, October 6th. No one appeared for the town board; J. E. Childs appeared for the New York, Ontario and Western Railway Company in favor of the application. Jasper N. Hardenburgh appeared in opposition to the closing of Hardenburgh's crossing. J. M. Meeker and F. Woolsey appeared in reference to the location of the new portion of highway to be opened. R. C. Young and James Sauvage appeared, by letter, in opposition.

The Board determines, under section 62 of the Railroad Law, that public safety requires the closing and discontinuance of Francisco's and Hardenburgh's crossings of the New York, On-

tario and Western Railway, in the town of Liberty, Sullivan county, and the opening of a new highway crossing over the railroad by means of an overhead bridge, to be located between the two crossings named, and the relocation of the highway in order to connect with the bridge to be built; the highway and bridge to be located as shown on a blue print plan attached hereto.

It is found to be impracticable to print the sketch referred to in the determination here.

After considerable correspondence with the railroad company and the town authorities, and inspections of the crossing by inspectors of the Board, the Board modified its determination in so far as one of the new pieces of highway to be constructed is concerned, so that said new piece of highway shall be constructed from the northerly end of the proposed overhead bridge for a distance of about 750 feet northerly to a point of connection with the Parkville road, about in front of the residence of James Sauvage. At the time of writing this report the necessary land for the improvement is being acquired.

IV.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY, IN RE FULL STOP AT CROSSING IN THE TOWN OF GATES, N. Y.

November 15, 1898.

On reading and filing the petition of the Buffalo, Rochester and Pittsburgh Railway Company and the consent of the Western New York and Pennsylvania Railway Company, and after hearing John S. Rockwell, Esq., counsel for petitioner, it is

Ordered, That in pursuance of the authority given this Board by section 36 of the Railroad Law, the Petitioner, the Buffalo, Rochester and Pittsburgh Railway Company, be and it is hereby relieved from the obligation to cause its passenger trains to come to a full stop at the crossing of the Western New York and Pennsylvania Railway in the Town of Gates, County of Monroe, and State of New York, known as the "Terminal Crossing," now used for switching purposes only. And it is further

Ordered, That in the event of any increased use of the track of the Western New York and Pennsylvania Railway Company, the Buffalo, Rochester and Pittsburgh Railway Company shall report the same to this Board, to the end that such further or other order may be entered thereon as may be proper.

V.

IN THE MATTER OF THE PETITION OF THE PRESIDENT AND TRUSTEES
OF THE VILLAGE OF ST. JOHNSVILLE, IN THE COUNTY OF MONT-
GOMERY, UNDER SECTION 62 OF THE RAILROAD LAW.

November 23, 1898.

This petition, under section 62 of the Railroad Law, by the president and trustees of the village of St. Johnsville, was filed with the Board September 22, 1898. It alleges that public safety requires an alteration in the manner in which a street known as Bridge street crosses the railroad of the New York Central and Hudson River Railroad Company in said village, and petitions the Board to determine that public safety requires an alteration in the manner of such crossing, so that the street shall be carried over the railroad above the grade thereof. The petition is signed and verified by the president and a majority of the board of trustees of the village. A public hearing, after notice as required by the statute, was given by the Board, at its office, in Albany, on Wednesday, October 5th. George C. Butler appeared for the applicant, and Ira A. Place for the New York Central and Hudson River Railroad Company. A plan of the change proposed was filed with the Board by the railroad company. After hearing evidence and arguments the evidence was closed, but the matter was held open pending a conference as to some of the details. On November 10th Charles Cronk, a property owner, appeared before the Board, and was heard in relation to the matter. A conference was held in the village of St. Johnsville on October 26th, at which the Board was represented. As a result of the conference, a new plan, showing the changes proposed was submitted to the Board, which plan is signed by the president, three trustees and clerk of the village, as well as by the engineers of the railroad company.

It is evident that public safety requires that this crossing should be changed from grade. The Board, therefore, determines that public safety requires that the street known as Bridge street, in the village of St. Johnsville, in the county of Montgomery, shall be carried over the New York Central and Hudson River Railroad above grade, by means of a structure as shown by a plan filed in this office, marked, "N. Y. C. & H. R. R. R. Plan for Proposed Overcrossing at Bridge St., St. Johnsville. October 4th, 1898. C. L. Jr. Div. Eng'r's Office, Albany, N. Y. J. C. Irwin, Div. Engineer, M. D. Approved, W. J. Wilgus, Engineer Maint. of Way. Approved Nov. 22nd, 1898, Harry Walrath, President, Frank Gebbio, Clarence E. Taylor, William Brooks, Trustees, N. F. Stichel, Clerk, For the Village of St. Johnsville. Scale, 50'=1". No. 10397."

Subsequently to this determination, the village (whose officers had changed) asked that it be given an opportunity to present "sufficient reasons that we should obtain your consent that all proceedings taken therein should be withdrawn." The Board, however, held that, in its opinion, a determination having been made, it had no power to annul said determination. Subsequently plans and specifications for doing the work and proposals of contractors were submitted to the Board, and contracts let. At the time of writing this report, the work is proceeding and is nearing completion; the approaches to the bridge and the abutments being finished, and the bridge in course of erection.

VI.

IN THE MATTER OF THE APPLICATION OF THE VILLAGE OF ANDOVER,
IN THE COUNTY OF ALLEGANY, UNDER SECTION 61 OF THE RAIL-
ROAD LAW.

November 23, 1898.

This application, by the village of Andover, Allegany county, under section 61 of the Railroad Law, was filed with this Board on August 17, 1898. It appears that the applicant has complied with the preliminary provisions of section 61 of the Railroad Law. The petition sets forth that the applicant has laid out a new street, called Harmon street, across the Erie railroad. It is desired that said crossing may be made at grade. Notice of hearing before this Board, as required by section 61, was duly given. The matter came on for hearing on October 4th, in the city of Albany. F. A. Robbins appeared for the applicant and for L. C. Van Fleet, a property owner, in favor of a crossing at grade. James H. Stevens appeared for the Erie Railroad Company, in opposition. It was contended by the railroad company that at the point where the crossing is proposed it has a yard, and that the village must comply with the provisions of section 148 of chapter 414 of the Laws of 1897 before application can properly be made to this Board. Testimony as to the existence of the yard was presented by the company. The Board does not decide this question. The Board does not believe that the street should cross the railroad at grade. It is the main line of the Erie railroad to Chicago, over which a heavy traffic passes, and a crossing at grade would be so dangerous that the Board would not be justified in determining that the crossing should be so made. It appears that an undercrossing is impracticable.

The Board determines, under section 61 of the Railroad Law, that Harmon street, in the village of Andover, Allegany county, shall be constructed over the railroad of the Erie Railroad Company, above grade, by means of an overhead bridge or structure. When the applicant signifies to this Board its readiness to carry

said street over the railroad, the Board will then determine the height, the length and material of the bridge or structure by means of which such street shall be carried across said railroad, and the length, character and grades of the approaches thereto.

An appeal has been taken by the village, and the Board has referred the matter to the Attorney-General.

VII.

IN THE MATTER OF THE PETITION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, LESSEE OF THE MOHAWK AND MALONE RAILWAY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE LOWER MEEKERVILLE ROAD, IN THE TOWN OF FORESTPORT, COUNTY OF ONEIDA.

November 23, 1898.

This petition by the New York Central and Hudson River Railroad Company, lessee of the Mohawk and Malone Railway, under section 62 of the Railroad Law, was filed with this Board on September 14, 1898. It alleges that public safety requires an alteration in the location of a highway, known as the Lower Meekerville road, which crosses the Mohawk and Malone Railway, in the town of Forestport, county of Oneida, and petitions the Board to determine that such crossing shall be closed and discontinued, and the highway, known as the Lower Meekerville road, be so altered in location that it shall not cross said railway, but shall connect by the construction of a new piece of highway on the easterly side of the railway with a highway known as the Upper Meekerville road, which crosses said railway about five hundred feet from the Lower Meekerville road. Attached to the petition is a blue print plan, showing the proposed alteration in the location of the highway. The petition is signed and verified by the general superintendent of the applicant. A public hearing, after notice as required by the statute, was given by the Board, at its office in Albany, on Wednesday, October 5th. Ira A. Place appeared for the applicant; G. W. Stedman for the town board of Forestport, in opposition; O. S. Stedman, for G. W. Stedman, as property owner, in opposition. The matter was held open.

The Board deems that public safety requires an alteration in the location of such highway. It, therefore, determines that the highway, known as the Lower Meekerville road, in the town of Forestport, county of Oneida, shall be so altered in location

that it shall not cross the Mohawk and Malone Railway, leased to the New York Central and Hudson River Railroad Company, but shall connect with a highway, known as the Upper Meekerville road, by the construction of a new piece of highway on the easterly side of the railway, and that the crossing of the said railway by the Lower Meekerville road, as at present existing, shall be closed and discontinued, when the relocation of the highway, as aforesaid, is accomplished.

The necessary land for the new piece of highway has been secured, but the actual work of constructing the new piece of highway has not yet been done.

VIII.

IN THE MATTER OF THE PETITION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE FIRST CROSSING WEST OF RECTOR'S CROSSING, IN THE TOWN OF GLENVILLE, COUNTY OF SCHENECTADY.

November 23, 1898.

This petition, under section 62 of the Railroad Law, by the New York Central and Hudson River Railroad Company, was filed with this Board on September 14, 1898. It alleges that public safety requires an alteration in the location of a highway which crosses the said railroad at a point about four hundred feet west of Rector's crossing, in the town of Glenville, in the county of Schenectady, and petitions the Board to determine that the said highway be so altered in location that it shall not cross the said railroad, but shall connect with the highway that crosses the said railroad at Rector's crossing. Attached to the petition is a blue print plan, showing the proposed alteration in the location of the highway. The petition is signed and verified by the general superintendent of the applicant. A public hearing, after notice as required by the statute, was given by the Board, at its office, in Albany, on Wednesday, October 5th. F. A. Harrington appeared for the applicant; C. B. Sanders and James B. Houck for the town board; J. T. Wyatt for Christian Rector, a property owner. The matter was held open pending the filing with the Board of an amended plan, showing the highway somewhat differently located than as shown on the plan attached to the petition. On October 1st, a petition was received from residents of the vicinity, protesting against the change as shown by the plan attached to the petition and asking that if the highway be relocated, it shall be about nine hun-

dred and fifty feet in length in the new location, as against eight hundred feet as shown by the plan attached to the petition. On November 23d, a new plan was laid before the Board, which shows the highway, as proposed to be altered in location, extending for a distance of about nine hundred feet. This plan, as modified, would seem to meet the wishes of the people in the vicinity, as expressed to the Board.

The Board deems that public safety requires the alteration of the highway. The Board, therefore, determines that the highway leading to the crossing, of the New York Central and Hudson River Railroad, about four hundred feet west of Rector's crossing, in the town of Glenville, county of Schenectady, shall be changed in location so that it shall not cross the railroad and so that in its new location it shall extend to Rector's crossing, in the manner shown by a blue print plan hereto attached, and that the crossing of the railroad, as now made by said described highway, shall be closed and discontinued when the highway is relocated.

This work has been completed, the crossings closed and the work approved by this Board.

IX.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF GUILFORD, IN THE COUNTY OF CHENANGO, UNDER SECTION 62 OF THE RAILROAD LAW.

November 23, 1898.

This petition, under section 62 of the Railroad Law, by the town board of the town of Guilford, in the county of Chenango, was filed with this Board on September 13, 1898. It alleges that public safety requires an alteration in the location of a highway known as the Old Turnpike, in said town, so that said highway shall not cross, as at present, the railroad of the New York, Ontario and Western Railway Company, at two points known, respectively, as the Milk Station crossing and Root's crossing, but shall diverge at a point near Root's crossing, pass over the outlet of Guilford lake by means of an iron bridge, and along the easterly side of said outlet, to an intersection with the highway known as Furnace Hill road, near the furnace of A. P. Merchant, from which point a highway known as the Gospel Hill road, crossing under the railroad, may be reached; and that another portion of the said highway known as the Old Turnpike shall be so changed in location that it shall pass through the lands of

Caroline A. Bunnell, connecting the portion of the existing Old Turnpike between Root's crossing and the Milk Station crossing with the Gospel Hill road, thus affording an outlet to persons living on the Old Turnpike between Root's crossing and the Milk Station crossing. The petition is signed and verified by a majority of the members of the town board. Subsequently, a petition, by residents of the town, in favor of the discontinuance of the two crossings, was filed with the Board. Surveys of the locality and reports were made by a civil engineer connected with this department.

A public hearing, after notice as required by the statute, was given by the Board, in the village of Sidney, on Tuesday, October 11th. C. D. Mickel, supervisor, and other members of the town board, appeared for the town; Mrs. Lola Wells, E. Bunnell (for Caroline A. Bunnell), Silas Root, Ray F. Hall, C. A. Winsor (for F. E. Winsor), property owners, also appeared; E. Canfield, general superintendent of the New York, Ontario and Western Railway Company, appeared for that company. After hearing evidence and arguments, the Board proceeded to Guilford, in company with persons present at the hearing, and inspected the crossings. Mr. Winsor asked that an opportunity be given him to present a proposition for the relocation of the highway, different from that proposed by the town board, which request was granted. Mr. Winsor's proposition and the final report of the Board's engineer, were submitted to the Board on November 23d.

It seems to the Board from the evidence and from its inspection of the locality, that public safety requires the changes petitioned for. The Board, therefore, determines, under section 62 of the Railroad Law, that public safety requires an alteration in the location of a highway known as the Old Turnpike, in the town of Guilford, Chenango county, so that said highway shall not cross, as at present, the railroad of the New York, Ontario and Western Railway Company at two points, known, respectively, as the Milk Station crossing and Root's crossing, but that said highway, from a point near Root's crossing, as at present existing, shall diverge and pass over the outlet of Guilford lake by means of an iron bridge, and along the easterly side of said outlet to an intersection with a highway known as the Furnace Hill road, near the furnace of A. P. Merchant; also that another portion of the said highway, known as the Old Turnpike, shall be changed in location so that it shall pass through the lands of Caroline A. Bunnell, connecting the portion of the existing Old Turnpike between Root's crossing and the Milk Station crossing with the Gospel Hill road; also that the Milk Station

crossing and Root's crossing of the railway shall be closed and discontinued when such changes are made.

After considerable correspondence with the railroad company, the town board and residents of Guilford, and inspections of the crossings by inspectors of the Board, the work has been commenced at the point in question, and the grading and masonry has been completed.

X.

IN THE MATTER OF THE PETITION OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO A CROSSING KNOWN AS THE RIDGE ROAD, IN THE TOWN OF WEST SENECA, ERIE COUNTY.

December 5, 1898.

This petition, under section 62 of the Railroad Law, by the Buffalo, Rochester and Pittsburgh Railway Company, was filed with the Board on September 17, 1897. It alleges that the Buffalo, Rochester and Pittsburgh Railway is crossed at grade, in the town of West Seneca, Erie county, by a certain highway known as the Ridge road, and that public safety requires an alteration in the manner of such crossing; it particularly asks that the highway be carried over the railroad by means of a bridge. No appropriation for the State's share of the expense of such work being available in 1897, the matter rested for some time. On October 21, 1898, a hearing was held in the city of Buffalo, after notice as required by the statute. At the hearing John S. Rockwell appeared for the applicant; William T. Fitzpatrick for property owners; John C. Graves and J. L. Hills for the Park Commissioners of the city of Buffalo; Rev. John J. Sheehan for the Diocese of Buffalo; Charles Schoepflin, supervisor of the town; and John B. Weber, Michael Newell, W. B. Dimmick, C. M. Lyman, M. O'Donnell and D. P. Hodson for property owners and others. Inspections of the crossing and reports were made by a member of the Board and engineers in the Board's employ. It appears that the applicant intends to change the grade of its railroad in the locality of this crossing, and at the hearing on October 21st some question was raised by the Park Commissioners of the city of Buffalo, as to the manner in which a new boulevard, in the neighborhood of the Ridge road, shall cross the railroad. A question was also raised as to the manner in which a highway known as South Park avenue shall, in the future, be carried over the railroad. The plan for the improvement submitted by the company was objected to by the Park Commis-

sioners and the town, with reference to the Boulevard crossing and the South Park avenue crossing. A conference was subsequently had between the engineer of the Park Commission, the engineer of the applicant and an engineer connected with this department, and a new plan was presented to the Board at an adjourned hearing, in the city of Buffalo, on November 15th. This plan was satisfactory to the town and to the Park Commissioners, as to the Boulevard crossing and the South Park avenue crossing.

It seems to the Board that public safety requires that the petition be granted. The Board, therefore, determines that public safety requires that the highway known as the Ridge road, in the town of West Seneca, in the county of Erie, shall be carried over the railroad of the Buffalo, Rochester and Pittsburgh Railway Company, above grade. Said highway crossing is to be kept open for the passage of vehicles and pedestrians during the progress of the work.

In view of the fact that the company intends to depress its railroad for reasons not connected with the abolishment of the grade crossing, it is herein and hereby explicitly understood that the State and the town shall only be called upon to bear the statutory proportions of the expense of the construction of ordinary abutments for the bridge carrying the highway across the railroad, the bridge and its approaches, and such damages to abutting property, if any, as may be determined by the courts to have been caused by the construction of the overhead crossing, irrespective of the depression of the railroad.

The work included in the above determination has not as yet been undertaken.

XI.

IN THE MATTER OF THE PETITION OF THE PRESIDENT AND TRUSTEES OF THE VILLAGE OF RANDOLPH, IN THE COUNTY OF CATTARAUGUS, UNDER SECTION 62 OF THE RAILROAD LAW.

December 6, 1898.

This petition, under section 62 of the Railroad Law, by the president and trustees of the village of Randolph, in the county of Cattaraugus, was filed with this Board on September 23, 1898. It alleges that public safety requires an alteration in the manner in which two streets, known, respectively, as Jamestown street and Fifth avenue, cross the railroad of the Erie Railroad Company, in said village, and asks the Board to determine that there

shall be changes in the manner of crossing and what the changes shall be. The petition is signed and verified by the president and all of the trustees of the village. A survey was made by the Board's engineer, who reported two plans for the elimination of the grade crossings. A public hearing, after notice as required by the statute, was given by the Board, in the city of Dunkirk, on Thursday, October 20th. D. De Witt Lockwood, president of the village, and Charles M. Dow, a property owner, appeared in favor of the application; no one appeared in opposition. The railroad company was not represented. Subsequently a request was received from the company that it be heard, and such hearing was given in the village of Randolph, on Wednesday, November 16th. At this hearing Charles W. Terry appeared for the petitioners; George F. Brownell and James G. Johnson for the Erie Railroad Company in opposition. After hearing evidence and arguments the hearing was closed. The Board visited the crossings. They are dangerous and should be changed. They can be changed, as hereinafter determined, at a reasonable cost.

The Board, therefore, determines that public safety requires that the crossing of the Erie Railroad by Fifth avenue, in the village of Randolph, Cattaraugus county, shall be closed and discontinued, when the undercrossing at Jamestown street and the new piece of highway, hereinafter referred to, are constructed; that the Jamestown street crossing of the Erie Railroad, in said village, shall be changed from grade and carried underneath said railroad, and that the travel from the Fifth avenue crossing shall be diverted to the Jamestown street undercrossing by means of a new piece of highway to be constructed on the southerly side of the railroad. The undercrossing at Jamestown street shall be thirty feet wide, and the clear headroom shall be twelve feet.

Work has been commenced at these crossings and is progressing diligently.

XII.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF RANDOLPH, IN THE COUNTY OF CATTARAUGUS, UNDER SECTION 62 OF THE RAILROAD LAW.

December 6, 1898.

This petition, under section 62 of the Railroad Law, by the town board of the town of Randolph, in the county of Cattaraugus, was filed with the Board on September 23, 1898. It alleges that public safety requires an alteration in the manner in which

a highway known as the Ireland road, crosses the railroad of the Erie Railroad Company, in said town, and particularly, asks the Board to determine that the highway shall be carried under the railroad. The petition is signed and verified by a majority of the members of the town board. A survey and report were made by the Board's engineer. A public hearing, after notice as required by the statute, was given by the Board, in the city of Dunkirk, on Thursday, October 20th. James C. Sheldon appeared for the town board; no one appeared in opposition. The railroad company was not represented, but subsequently a request was received from the company that it be heard, and such hearing was given in the village of Randolph, on Wednesday, November 16th. At this hearing, James C. Sheldon appeared for the town board; George F. Brownell and James G. Johnson for the Erie Railroad Company in opposition. After hearing evidence and arguments the hearing was closed. The Board visited the crossing. It is dangerous and should be changed. It can be changed as hereinafter determined, at a reasonable cost.

The Board, therefore, determines that public safety requires that the highway crossing known as the Ireland road crossing of the Erie Railroad, in the town of Randolph, Cattaraugus county, be changed from grade and carried underneath said railroad, the undercrossing to be 24 feet wide, and the headroom to be 12 feet in the clear.

Work has been commenced at this crossing and is progressing diligently.

XIII.

IN THE MATTER OF THE PETITION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF ELMIRA, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO GRADE CROSSING OF WOODLAWN AVENUE AND THE ERIE RAILROAD, IN SAID CITY.

December 6, 1898.

This petition, under section 62 of the Railroad Law, by the mayor and common council of the city of Elmira, was filed with the Board on October 12, 1898. It alleges that public safety requires an alteration in the manner in which a street known as Woodlawn avenue crosses the railroad of the Erie Railroad Company, in said city, and petitions the Board to determine that public safety requires that the street shall be carried below the grade of the railroad, it now crossing at grade. The petition is signed and verified by the mayor and common council of the city. A public hearing, after notice as required by the statute,

was given by the Board, in the city of Elmira, on Friday, November 18th. D. P. Lynch for the applicants, Frederick F. Collin for the Erie Railroad Company, Herbert M. Lovell for the Board of Trade of the city of Elmira, and Robert Holly, a property owner, appeared in favor of the application; H. H. Rockwell, for Alice L. Hallock and Ira W. Bennett, property owners, appeared in opposition. The Board inspected the situation at the crossing. It is proposed to close and discontinue the existing Reformatory street crossing of the railroad and divert the travel, by the construction of a new street, to the proposed Woodlawn avenue undercrossing. A separate petition in regard to the Reformatory street crossing was made, and a determination therein, that it shall be closed, is made by the Board, of this date.

It is evident that public safety requires that the Woodlawn avenue crossing shall be made beneath the grade of the railroad. The Board, therefore, determines that public safety requires that the street known as Woodlawn avenue, in the city of Elmira, shall be carried underneath the railroad of the Erie Railroad Company, and that the existing grade crossing shall be closed and discontinued.

The plans specifications and proposals of contractors for doing the work provided for by the above determination have been submitted to the Board and approved. The company has informed the Board that the work will be pushed as rapidly as possible.

XIV.

IN THE MATTER OF THE PETITION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF ELMIRA, UNDER SECTION 62 OF THE RAILROAD LAW, FOR A DETERMINATION THAT THE REFORMATORY STREET CROSSING OF THE ERIE RAILROAD, IN SAID CITY, SHALL BE CLOSED AND DISCONTINUED.

December 6, 1898.

This petition, under section 62 of the Railroad Law, by the mayor and common council of the city of Elmira, was filed with the Board on November 2, 1898. It alleges that public safety requires the closing and discontinuance of the Reformatory Street crossing of the Erie railroad, in said city, and the diversion of the travel thereon to an undercrossing of said railroad, proposed to be constructed at Woodlawn avenue. The petition is signed and verified by the mayor and common council of the city. A public hearing, after notice as required by the statute, was given by the Board, in the city of Elmira, on Friday, November 18th.

D. P. Lynch appeared for the applicants, and Frederick F. Collin for the Erie Railroad Company, in favor of the application; H. H. Rockwell appeared for Alice L. Hallock and Ira W. Bennett, property owners, in opposition. This petition is considered in connection with one for the establishment of an undercrossing of said railroad by Woodlawn avenue and the diversion of the travel from the Reformatory Street crossing to the undercrossing at Woodlawn avenue by the construction of a connecting street.

It seems to the Board that public safety requires the closing and discontinuance of the Reformatory Street crossing. The Board, therefore, determines that public safety requires that the crossing of the Erie railroad by Reformatory street, in the city of Elmira, shall be closed and discontinued and the travel thereon be diverted, by the construction of a new street, to an undercrossing of the railroad to be established at Woodlawn avenue. The said crossing of Reformatory street, however, shall not be closed and discontinued until after the construction of the undercrossing at Woodlawn avenue has been completed and a new street opened connecting said Reformatory street with said Woodlawn avenue, thus diverting the travel from the Reformatory street crossing to the undercrossing at Woodlawn avenue.

This determination is in connection with the preceding determination as to Woodlawn avenue. The land necessary for the new street connecting Reformatory street with the proposed undercrossing at Woodlawn avenue, has been acquired.

XV.

IN THE MATTER OF THE APPLICATION OF THE TOWN OF LEICESTER, LIVINGSTON COUNTY, UNDER SECTION 61 OF THE RAILROAD LAW, AS TO THE LAYING OUT OF A NEW HIGHWAY ACROSS THE WESTERN NEW YORK AND PENNSYLVANIA RAILWAY.

December 15, 1898.

This petition by the town of Leicester, Livingston county, N. Y., under section 61 of the Railroad Law, was filed with the Board on October 22, 1898. It alleges that the steps required by section 61 of the Railroad Law have been taken for the establishment of a crossing of the Western New York and Pennsylvania Railway, by a highway in said town (near the Delaware, Lackawanna and Western Railroad junction), and asks the Board to determine whether such highway shall pass over or under such railroad, or at grade. Public hearings, after notice as required by the statute, were given in the city of Rochester and in the

city of Buffalo, on December 14th and 15th, respectively. At the hearing in Rochester L. C. Pelton, highway commissioner of the town, and A. V. Cooley, a member of the town board, appeared for the applicant; William W. Willard, representing William Wadsworth, a property owner, and John F. White, a property owner, also appeared. The Western New York and Pennsylvania Railway Company was not represented at this hearing, but was represented by its attorney, Frank Rumsey, at the hearing in Buffalo on December 15th. The town desires that the crossing may be made at grade. It appears that it is proposed to abandon an existing grade crossing of said railroad in the town of Mt. Morris (the adjoining town), which existing crossing is very dangerous, owing to obstruction of the view of the railroad; that the proposed crossing will be at a point where an open and unobstructed view of the railroad for several hundred yards in each direction may be had; and that the new crossing is necessary if the old crossing is abandoned.

The Board would not consent that this new crossing may be made at grade, were it not for the fact that a very dangerous existing grade crossing is to be closed and discontinued, and that the new crossing, to take the place of the old one, will be much safer. It is also alleged that it would be impracticable to construct an under or over crossing of the railway at the point proposed.

The Board, therefore, determines, under section 61 of the Railroad Law, that a new highway in the town of Leicester, Livingston county, may cross at grade the Western New York and Pennsylvania Railway, near the Delaware, Lackawanna and Western Railroad junction; that said crossing shall be properly planked and maintained. The new crossing, however, shall not be used by the public until the existing crossing referred to above is closed and discontinued.

XVI.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF HOLLAND, ERIE COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

December 15, 1898.

This petition by the town board of the town of Holland, Erie county, under section 62 of the Railroad Law, was filed with the Board on October 15, 1898. It alleges that public safety requires an alteration in the manner in which a highway, known as the Crosby road, crosses the Western New York and Pennsylvania

Railway, in said town, and petitions that the Board determine that said crossing shall be changed from grade and carried over the railroad by means of a bridge. The petition is signed and verified by a majority of the members of the town board. Public hearings, after notice as required by the statute, were given by the Board, in the city of Buffalo, on Tuesday, November 15th, and Thursday, December 15th. William B. Jackson, supervisor, and other members of the town board appeared for the town; Frank Rumsey for the Western New York and Pennsylvania Railway Company. A plan for the proposed overhead bridge was submitted to the Board by the railway company. The crossing is dangerous and should be changed.

The Board, therefore, determines that public safety requires that the highway known as the Crosby road, in the town of Holland, Erie county, shall be changed from grade at the point where it crosses the Western New York and Pennsylvania Railway, and be carried over said railway, above grade, by means of a bridge, substantially as shown by a plan on file in this office. The present crossing shall not be closed until the new overhead crossing for travel is established.

This work has been completed, and at the time of writing this report the overhead crossing is in use.

XVII.

IN THE MATTER OF THE APPLICATION OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, UNDER SECTION 36 OF THE RAILROAD LAW.

December 22, 1898.

This application, under section 36 of the Railroad Law, was filed with the Board on December 2, 1898. It asks the approval of the Board of an auto-pneumatic signal apparatus which is in use at the crossing of the railroad of the applicant and the Western New York and Pennsylvania Railway Company, west of Mt. Morris, and that the full stop and crossing on signal, of trains may be discontinued. An inspection of the crossing and the signal apparatus was made by a member of the Board, who reported that the apparatus is satisfactory and that the application should be granted.

The application is, therefore, hereby granted, and "the full stop and crossing on signal," of trains at this crossing, may be discontinued.

XVIII.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, LESSEE OF THE TERMINAL RAILWAY OF BUFFALO, UNDER SECTION 36 OF THE RAILROAD LAW.

December 22, 1898.

This application, under section 36 of the Railroad Law, was filed with the Board on December 3, 1898. It asks the approval of the Board of an interlocking switch and signal apparatus which is in use at the crossing of the railroads of the applicant and the Western New York and Pennsylvania Railway Company, near the city of Buffalo, and that the full stop and crossing on signal, of trains may be discontinued. An inspection of the crossing and of the signal apparatus was made by the inspector of the Board, who reported that the apparatus is satisfactory, and that the application should be granted. A blue print, showing the switch and signal system, is also on file with the Board.

It appearing to the Board that the apparatus in question is satisfactory, the application is hereby granted, and "the full stop and crossing on signal," of trains at this crossing, may be discontinued.

XIX.

IN THE MATTER OF THE PETITION OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW.

December 22, 1898.

This petition by the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, was filed with the Board on November 12, 1898. It alleges that public safety requires an alteration in the manner in which two highways near the station of said railway, known as Hardy's, or Pike, in the town of Gainesville, Wyoming county, cross said railway, and that said crossings, now at grade, should be closed and discontinued, and petitions that the highways be combined in one new highway to extend from an angle where they now meet west of the railway of the petitioner, in a straight line across said railway, by means of a bridge, to a cross road which is now open connecting the said two highways easterly of the railway of the petitioner. The petition is signed and verified by the president of the applicant. Attached to the petition is a plan of the proposed changes. A resolution of the town board of the town of

Gainesville, in favor, conditionally, of the elimination of the crossings, was filed with the Board. A public hearing, after notice as required by the statute, was given by the Board at the station of the applicant, known as Hardy's, or Pike, December 13th, at 11.30 a. m. John S. Rockwell appeared for the applicant; Romanzo Perkins and others for the town board; Henry Dolph and George Dolph, property owners, also appeared. The Board inspected the crossings in question. They are dangerous and should be changed.

The Board, therefore, determines that public safety requires that the two highway crossings of the Buffalo, Rochester and Pittsburgh Railway, near the station of said railway known as Hardy's, or Pike, shall be closed and discontinued and that a new highway shall be opened, extending from an angle where the said two highways meet west of said railway, in a straight line across said railway, above the grade thereof, by means of a bridge, to a cross road which is now open, connecting the said two highways easterly of said railway, substantially as shown by a plan attached to the petition herein. The said two crossings shall not be closed until the new overhead crossing for travel is established.

The substructural work involved in this determination has been completed and approved by this Board; the bridge has not yet been erected.

XX.

IN THE MATTER OF THE PETITION OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW.

December 22, 1898.

This petition by the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, was filed with the Board on November 24, 1898. It alleges that public safety requires an alteration in the location of a highway, known as the Guthrie road, near Mumford station, in the town of Wheatland, Monroe county, which Guthrie road now crosses the petitioner's railroad at grade, and prays that the location of the said Guthrie road shall be so changed, by the construction of a new piece of highway, for a short distance on the easterly side of the railway, that it shall intersect the highway known as the Caledonia and Mumford road that crosses the railroad of the petitioner. The petition is signed and verified by the president of the applicant. A public hearing, after notice as required by the statute, was

given by the Board at the station of the applicant in Mumford, December 13th, at 3.15 p. m. John S. Rockwell appeared for the applicant; John Shaudler and a majority of the town board for the town; William S. McKenzie, Andrew Guthrie, David Nichols, Thomas Fitzgerald and William Robertson appeared in opposition. The Board inspected the crossing.

The Board deems that public safety requires an alteration in the location of said highway. It, therefore, determines that the highway known as the Guthrie road, near Mumford station, in the town of Wheatland, county of Monroe, shall be so altered in location that it shall not cross the Buffalo, Rochester and Pittsburgh Railway, but shall connect with a highway known as the Caledonia and Mumford road, by the construction of a new piece of highway, for a short distance on the easterly side of the railway, and that the crossing of said railway by said Guthrie road shall be closed and discontinued when the relocation of the highway, as aforesaid, is accomplished. This change is to be made, substantially, as shown on a plan filed with this Board, marked "Mumford. Applicant's exhibit No. 1. Dec. 13-98. E. C. McE."

Delay has been occasioned in carrying out the above determination owing to difficulty in securing the necessary land. The matter, however, is progressing.

XXI.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF LE ROY, IN THE COUNTY OF GENESEE, UNDER SECTION 62 OF THE RAILROAD LAW.

December 22, 1898.

This petition by the town board of the town of Le Roy, in the county of Genesee, under section 62 of the Railroad Law, was filed with this Board on October 29, 1898. It alleges that public safety requires an alteration in the manner in which a highway, known as the Le Roy and Roanoke road, crosses the railroad of the Buffalo, Rochester and Pittsburgh Railway Company, at a point known as Haskin's crossing, in said town, and petitions the Board to determine that said highway shall be changed from grade and carried over said railroad by means of a bridge. The petition is signed and verified by a majority of the members of the town board. The Buffalo, Rochester and Pittsburgh Railway Company joins in the petition. A public hearing, after notice as required by the statute, was given by the Board at the station of the Buffalo, Rochester and Pittsburgh Railway

Company, in Le Roy, on December 13th, at 1.30 p. m. Clarence Bryant, supervisor, and other members of the town board appeared for the town; John S. Rockwell for the railway company. The Board inspected the crossing. It is dangerous and should be changed from grade.

The Board, therefore, determines that public safety requires that the crossing of the Buffalo, Rochester and Pittsburgh railway by the Le Roy and Roanoke road, at a point known as Haskin's crossing, in the town of Le Roy, in the county of Genesee, shall be changed from grade and that the highway shall be changed in location to some extent, and be carried over the railroad by means of a bridge, substantially as shown by a plan on file in this office marked, "Le Roy. Applicant's exhibit No. 1. Dec. 13-98. E. C. McE." The roadway of the bridge shall be sixteen feet wide in the clear. The existing crossing shall not be closed until the new overhead crossing for travel is established.

The substructural work involved in this determination has been completed and approved by this Board; the bridge has not yet been erected.

XXII.

IN THE MATTER OF THE PETITION OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO CROSSINGS OF ITS RAILROAD, KNOWN AS THE GOULD CROSSING, HEDGES CROSSING, THE UNDERHILL CROSSING AND THE NORCROSS CROSSING.

December 22, 1898.

This petition by the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, was filed with the Board on October 26, 1898. It alleges that public safety requires an alteration in the location of a highway, running in a northerly and southerly direction and leading from the village of Colden to the hamlet of Glenwood, in the county of Erie, and which now crosses the railroad of the petitioner at grade at four points, known, respectively, as the Gould crossing, Hedges crossing, the Underhill crossing and the Norcross crossing, and petitions the Board to determine that said highway shall be so altered in location that it shall not cross said railway at said points, but shall continue from a point northerly of the said Gould crossing to a point southerly of the said Norcross crossing on the westerly side of the railway, and that said four crossings

shall be closed and discontinued. The petition is signed and verified by the president of the applicant. A public hearing, after notice as required by the statute, was given at the station of the applicant in Colden, on December 13th, at 8:40 A. M. John S. Rockwell appeared for the applicant; O. J. Colburn and Robert G. Crump for the town board of Colden; Stephen J. Hedges, Christian Miller, Howard L. Gould, Albert J. Gould and John Underhill, property owners, also appeared. The Board inspected the crossings proposed to be abolished.

The Board deems that public safety requires an alteration in the location of such highway. It, therefore, determines that the highway, running in a northerly and southerly direction from the village of Colden to the hamlet of Glenwood, in the town of Colden, Erie county, shall be so altered in location that it shall not cross the Buffalo, Rochester and Pittsburgh Railway at four points, known, respectively, as the Gould crossing, the Hedges crossing, the Underhill crossing and the Norcross crossing, but shall be carried on the westerly side of the said railway, from a point northerly of the said Gould crossing to a point southerly of the said Norcross crossing, substantially as shown by a plan on file in this office, marked "Colden. Applicant's exhibit No. 1. Dec. 13, '98. E. C. McE," and that said crossings of said railway shall be closed and discontinued, when the re-location of the highway, as aforesaid, is accomplished.

The work involved in the above determination has been completed and has been approved by the Board, subject the placing of some additional rip-rap work against the embankment of the old highway immediately west of the junction of the new highway with the old highway leading to Underhill's crossing. Thus four grade crossings of the railroad have been eliminated at this point.

XXIII.

IN THE MATTER OF A PETITION BY THE MAYOR AND COMMON COUNCIL
OF THE CITY OF CORNING, UNDER SECTION 62 OF THE RAILROAD
LAW.

December 22, 1898.

This petition, under section 62 of the Railroad Law, by the mayor and common council of the city of Corning, was filed with this Board on October 12, 1898. It alleged that public safety required an alteration in the manner in which First street, in said city, crosses the Erie Railroad, and prayed for a determination that said street shall be carried underneath said railroad. A hearing in the matter was given in the city of Corning, on

Thursday, November 17th. Subsequently the city notified the Board that it desired to abandon the project for the present, and it was notified that the case "has been closed on the files of this office until further notification is received from the city."

XXIV.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF CARROLL, IN THE COUNTY OF CHAUTAUQUA, UNDER SECTION 62 OF THE RAILROAD LAW.

December 22, 1898.

This petition by the town board of the town of Carroll, in the county of Chautauqua, under section 62 of the Railway Law, was filed with the Board on November 2, 1898. It alleges that public safety requires an alteration in the location of a highway, known as the Falconer road, which now crosses at grade the railroad of the Dunkirk, Allegheny Valley and Pittsburg Railroad Company, at points known, respectively, as the "Tracy" crossing and the "Lawson" crossing, in said town, and petitions the Board to determine that said highway shall be so altered in location that it shall not cross said railroad at said points, but shall continue on the westerly side of said railroad from a point near the "Tracy" crossing southerly to a point near the iron bridge across the Conewango creek, and that the "Tracy" and "Lawson" crossings of said railroad shall be closed and discontinued. The petition is signed and verified by a majority of the members of the town board. A public hearing, after notice as required by the statute, was given by the Board, in the city of Dunkirk, on Thursday, December 15th. A. M. Woodcock, town clerk, appeared for the town board; D. C. Moon, superintendent, for the railroad company. An engineer connected with the Board made a report as to these crossings, which is on file in this office.

The Board deems that public safety requires an alteration in the location of said highway. It, therefore, determines, that the highway, known as the Falconer road, in the town of Carroll, Chautauqua county, shall be so altered in location that it shall not cross the railroad of the Dunkirk, Allegheny Valley and Pittsburg Railroad Company, at two points known, respectively, as the "Tracy" crossing and the "Lawson" crossing, in said town, but shall continue on the westerly side of said railroad from a point near the "Tracy" crossing southerly to a point near the iron bridge across the Conewango creek, and that the "Tracy" and "Lawson" crossings of said railroad shall be

closed and discontinued when the re-location of the highway, as aforesaid, is accomplished.

The Board has received the following letter in reference to this matter:

FREWSBURG, N. Y., *August 24, 1899.*

JOHN S. KENYON, *Secretary.*

DEAR SIR.—I have to inform you that no progress has been made in altering the location of Falconer Road, and supervisor John Venman is not inclined to proceed unless obliged to do so.

Respectfully,

A. M. WOODCOCK,
Town Clerk.

XXV.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO TRACTION COMPANY, UNDER SECTION 68 OF THE RAILROAD LAW.

January 4, 1899.

This application, under section 68 of the Railroad Law, was filed with this Board by the Buffalo Traction Company on May 10, 1898. It asked for a determination of the manner in which its railroad should cross the railroads of the New York Central and Hudson River Railroad Company and the Erie Railroad Company, at several points in the city of Buffalo. A hearing in the matter was set for the city of Buffalo, on Thursday, May 19, 1898. At the hearing, the applicant requested that it be adjourned indefinitely, which request was concurred in by the parties represented. Subsequently, the applicant did not request a hearing in the matter, and the Board asked it if it desired a hearing. In reply the applicant stated that it was not yet ready to proceed and requested that it be permitted to withdraw its application without prejudice to making a new application when the company is prepared to proceed. This request was granted, the papers remaining on file in this office.

XXVI.

IN THE MATTER OF THE COMPLAINT OF C. BARTON AGAINST THE ERIE RAILROAD COMPANY.

January 6, 1899.

C. Barton, of Union, Broome county, complained to this Board as to the location of a highway warning bell at the crossing of the Erie Railroad by a highway one mile west of Union, Broome

county. The company answered that it would change the location of the bell, but failed to do so. Mr. Burton again complained. The company answered that through some misunderstanding the bell had not been relocated when it said it would be, but said relocation had now been made.

XXVII.

IN THE MATTER OF THE APPLICATION OF THE VILLAGE OF HERKIMER, IN THE COUNTY OF HERKIMER, UNDER SECTION 61 OF THE RAILROAD LAW.

January 6, 1899.

This application by the village of Herkimer, in the county of Herkimer, under section 61 of the Railroad Law, was filed with this Board on August 31, 1898. It appears that the applicant has complied with the preliminary provisions of section 61 of the Railroad Law. The petition sets forth that the applicant has laid out an extension of Folts street, in said village, across the Mohawk and Malone Railway, leased to the New York Central and Hudson River Railroad Company. Notice of hearing before this Board, as required by the statute, was duly given. The matter came on for hearing on October 5th, in the city of Albany. Robert E. Steele appeared for the applicant, in favor of a crossing at grade; Ira A. Place appeared for the New York Central and Hudson River Railroad Company, in opposition to a crossing at grade. An inspection of the locality of the proposed crossing and a report were made by an engineer of the Board. It appears that at the point where it is proposed to cross there are five tracks, and that considerable switching is done over some of these. From the report of its engineer and from the evidence taken at the hearing, the Board does not believe that the street should cross the railroad at grade.

The Board, therefore, determines, under section 61 of the Railroad Law, that the proposed extension of Folts street, in the village of Herkimer, in the county of Herkimer, shall be carried across the Mohawk and Malone Railway, leased to the New York Central and Hudson River Railroad Company, above the grade of the railway, by means of a bridge or structure. When the applicant signifies to this Board its readiness to carry said street over the railway, the Board will then determine the height, the length and the material of the bridge or structure by which said street shall be carried across said railway, and the length, character and grades of the approaches thereto.

The village subsequently made application for a determination of the height, length and material of the proposed bridge, which determination was made by this Board, as shown by a plan prepared by the Board, entitled "Board of R. R. Commissioners. Plan of proposed over-crossing at Folts street, Herkimer, September 14, 1890. A. H. Sutermeister, S. G. C. B."

XXVIII.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, A STEAM SURFACE RAILROAD COMPANY, THE RAILROAD OF WHICH IS CROSSED IN THE CITY OF ALBANY BY SPENCER STREET AND BY LIVINGSTON AVENUE AT GRADE, FOR AN ALTERATION IN THE MANNER AND METHOD OF SUCH CROSSINGS.

January 24, 1890.

The New York Central and Hudson River Railroad Company, the petitioner above named, having brought its petition in writing, dated and verified August 25, 1898, to the Board of Railroad Commissioners, praying for an alteration in the manner and method of the crossings of its steam surface railroad by Spencer street and Livingston avenue in the city of Albany, and of the approaches to the said crossings, and alleging that public safety required an alteration in the manner and method of such crossings and of their approaches; and thereupon the said Board of Railroad Commissioners having appointed a time and place for hearing the said petition, to wit: the 14th day of September, 1898, in the city of Albany, at 10 o'clock a. m., and having given such personal notice thereof as the Board judged reasonable, of not less than ten days, however, to the said petitioner, to the city of Albany in which the said crossings are situated, and to the owners of the lands adjoining said crossings and adjacent to that part of the said Spencer street, Livingston avenue, Montgomery street and Jackson street, to be changed in grade or location, and to the owners of land to be opened for the diversion of Montgomery street and Jackson street; and having caused notice of said hearing to be advertised in at least two newspapers, to wit: in the *Albany Argus* eleven times successively and in the *Albany Evening Journal* nine times successively, both published in the city of Albany, the locality affected by the said application; and at the said time and place appointed for hearing the said petition, or at the time or times to which such hearing was adjourned, the city of Albany having appeared by John A. Delahanty, esq., its corporation counsel, the president, managers and company of the Delaware and Hudson Canal Company (hereinafter called the Delaware and Hudson Canal Company),

by W. F. Rathbone, esq., its counsel, Armour & Company, Charles Tillinghast and Mary Sheedy, property owners, by George W. Stedman, esq., their attorney, Henry W. Draper, a property owner, by John C. Feltman, esq., his attorney, Mary M. Bergfelds, a property owner, by Edward W. Rankin, esq., her attorney, Elizabeth Wallace, Janet A. Lathrop, James H. Grass, Hugh C. Edmeston, Robert J. Hubbard, property owners, by Matthew J. Wallace and Elijah W. Murphey, Edward Ronan, William J. McCormack, Charles Newman and J. L. Newman, property owners, in person, and the said petitioner, the New York Central and Hudson River Railroad Company, by Ira A. Place, esq., and by William P. Rudd, esq., its counsel, and all of the said parties so appearing having been heard, or having had an opportunity to be heard, and no one else appearing, and no one excepting Armour & Company, Mary Sheedy, Charles Newman and J. L. Newman objecting to the granting of the relief prayed for in the said petition, and certain modifications of the plans proposed by the petitioner for altering the manner and method of said crossings and of their approaches, in matters of detail, having been suggested on behalf of the city of Albany and of the Delaware and Hudson Canal Company, and the petitioner consenting to such modifications, and no one objecting thereto, the said plans were on the 22d day of September, 1898, referred to the proper officials of the city of Albany, of the Delaware and Hudson Canal Company, and of the petitioner, to agree upon and make such modifications in detail, the testimony in the said hearing was closed; and the said plans, with such modifications in detail having been made and agreed upon, and due deliberation having been had; now

The said Board of Railroad Commissioners has ordered and determined, and does hereby order and determine, that the following alterations and changes in the manner and method of the said crossings and of their approaches shall be made:

1. The said crossing at Spencer street shall be altered and changed in such manner that the said Spencer street will pass under the railroad of the petitioner with a minimum clear space or head room between the surface of the pavement of the said street and the lowest part of the railroad bridge over the same of twelve and forty-seven one hundredths (12.47) feet.

2. The said crossing at Livingston avenue shall be altered and changed in such manner that the said Livingston avenue will pass under the railroad of the petitioner with a minimum clear space or head room between the surface of the pavement of the said street and the lowest part of the railroad bridge over the same of eleven and thirty-six one hundredths (11.36) feet.

3. The approaches to said Spencer street crossing by way of Montgomery street, shall be diverted, altered and changed as follows:

(a) Southerly of Spencer street, by diverting Montgomery street at or near its intersection with the southerly line of said Spencer street westerly in such manner as to include within the lines of the said street a parcel of land bounded as follows: Beginning at the intersection of the westerly line of Montgomery street with the southerly line of Spencer street, and running thence westerly along the southerly line of Spencer street 21.8 feet; thence southerly in a straight line 60.62 feet, to a point in the said westerly line of Montgomery street; and thence northerly along the westerly line of Montgomery street 55.86 feet, to the point and place of beginning; all that part of the said Montgomery street, bounded as follows: Beginning at the intersection of the southerly line of Spencer street with the easterly line of Montgomery street, and running thence westerly along the southerly line of Spencer street 44.57 feet; thence southerly in a straight line 124 feet, to a point in the easterly line of Montgomery street; and thence northerly along the easterly line of Montgomery street 114.18 feet, to the point and place of beginning, shall be discontinued and closed as a public street or highway.

(b) Between Montgomery street and Livingston avenue in such manner that when so diverted, altered and changed Montgomery street between Spencer street and Livingston avenue will be bounded as follows: Beginning at the intersection of the present easterly line of Montgomery street with the southerly line of Livingston avenue, and running thence southerly along the present easterly line of Montgomery street 374.63 feet, more or less, to the southwesterly corner of the Tillinghast Malt House; thence on a curve to the left having a radius of 557.53 feet, 106.20 feet; thence on a straight line tangent to the last described curved line, 79.60 feet, to a point in the northerly line of Spencer street, distant 57.87 feet easterly from the intersection of the easterly line of Montgomery street with the said northerly line of Spencer street, and thence westerly along the northerly line of Spencer street 41.42 feet, more or less, to a point that is 38 feet distant westerly measured at right angles, from the line last described; thence northerly and parallel to the new easterly line of Montgomery street above described 63.13 feet; thence still northerly on a curve to the right having a radius of 595.53 feet and tangent to the last described line, to a point 47 feet, measured at right angles, westerly from the line first above described; thence northerly, tangent to the last described curved line, and parallel to the present

easterly line of Montgomery street, and 47 feet distant westerly, measured at right angles therefrom, about 291 feet to the southerly line of Livingston avenue; thence southeasterly along the southerly line of Livingston avenue to the point and place of beginning; all that part of the said Montgomery street between Spencer street and Livingston avenue lying westerly of the new westerly line thereof as hereinabove described, shall be discontinued and closed as a public street or highway.

4. The approach to said Livingston avenue crossing by way of Jackson street, shall be diverted, altered and changed in such manner that when so diverted, altered and changed, the said Jackson street between Spencer street and Livingston avenue will be bounded as follows: Beginning at the intersection of the present westerly line of Jackson street with the northerly line of Spencer street, and running thence northerly along the said present westerly line of Jackson street to the southerly line of the lands owned by the New York Central and Hudson River Railroad Company; thence northerly on a curve having a radius of 2247.13 feet, 142.67 feet; thence northerly in a straight line tangent to the last described curved line 63.25 feet to the southwestly line of Livingston avenue, said point being about 51.84 feet westerly from the westerly line of Jackson street; thence southeasterly along the said southwestly line of Livingston avenue 54.33 feet, more or less, to a point that is distant 36 feet easterly, measured at right angles, from the line last described; thence southerly parallel to the said new westerly line of Jackson street, as above described, to a point distant 36 feet, measured at right angles, easterly from the southeast corner of the lands of the New York Central and Hudson River Railroad Company above referred to; thence continuing southerly on a curved line with a radius of 2283.13 feet, about 265 feet, to a point distant 35 feet, measured at right angles, easterly from the said westerly line of Jackson street; thence southerly 35 feet easterly from and parallel to the said westerly line of Jackson street to the northerly line of Spencer street, and thence westerly along the northerly line of Spencer street 35 feet to the point and place of beginning; all that part of the said Jackson street between Spencer street and Livingston avenue lying easterly of the new easterly line thereof, as hereinabove described, shall be discontinued and closed as a public street or highway.

All of the said alterations and changes shall be made in accordance with the map and profiles thereof marked "N. Y. C. & H. R. R. R. Map & Profiles showing Proposed Elimination of Grade Crossings at Spencer St. & Livingston Ave., Albany," ap-

proved by Walter Katte, chief engineer, and by W. J. Wilgus, engineer maintenance of way, of The New York Central and Hudson River Railroad Company; by Horace Andrews, city engineer of the city of Albany; and by H. G. Young, second vice-president of The Delaware and Hudson Canal Company, a blue print of which was filed in the office of the Board of Railroad Commissioners on the 21st day of December, 1898, and which blue print is hereby referred to with the same force and effect as if the same were attached to and made a part of this determination, and this determination includes all the alterations and changes shown on the said blue print.

And the petitioner, The New York Central and Hudson River Railroad Company, having consented in writing thereto,

It is further ordered and determined that the said The New York Central and Hudson River Railroad Company shall be at the expense of the necessary filling for the raising of its tracks south of Spencer street, between Spencer street and Livingston avenue, and north of Livingston avenue; and that the said The New York Central and Hudson River Railroad Company shall by proper instrument or instruments in writing grant and release, or dedicate to the city of Albany, for the consideration of one dollar, for street purposes, so much of the pieces or parcels of land required for the diversion of Montgomery street and Jackson street as hereinabove provided as is now owned by the said The New York Central and Hudson River Railroad Company.

Plans, specifications and proposals of contractors for doing the work involved in the above determination were submitted to the Board and approved. The work was undertaken and is progressing diligently.

XXIX.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE, LAKESIDE AND BALDWINVILLE RAILWAY, UNDER SECTION 68 OF THE RAILROAD LAW.

February 15, 1899.

This application, under section 68 of the Railroad Law, was filed with this Board on January 28, 1899. It asked the Board to determine that the railroad of the petitioner may cross at grade a branch track of the Delaware, Lackawanna and Western Railroad Company near Long Branch, on Onondaga lake, during that part of the year when said branch track is not used by the steam railroad company, it being proposed not to cross during the time of year when the track is used by the steam railroad company. The petitioner subsequently informed the Board that it had pur-

chased said branch track from the Delaware, Lackawanna and Western Railroad Company and that its application was unnecessary, and asked to withdraw it. Such withdrawal was permitted, but the papers remain on file in this office.

XXX.

IN THE MATTER OF THE PETITION OF THE PRESIDENT AND TRUSTEES OF THE VILLAGE OF PULASKI, OSWEGO COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

March 1, 1899.

This petition, under section 62 of the Railroad Law, was filed with this Board by the president and trustees of the village of Pulaski, Oswego county, on November 24, 1898. It alleged that public safety required an alteration in the manner in which Rome street and Salina street, in said village, crossed the Rome, Watertown and Ogdensburg division of the New York Central and Hudson River Railroad, and petitioned this Board to determine that the Salina street crossing be carried underneath the railroad, and that the Rome street crossing be closed and the travel thereon diverted to the Salina street undercrossing by means of a connecting piece of highway. The petition stated that the petitioners reserved the right to withdraw it if the cost of the proposed changes should prove to be too great. A survey at the crossing, and estimate of the expense of the proposed changes were made by an engineer of the Board. A statement of the estimate was sent to the petitioners. In reply, the petitioners stated that the cost would be too great and withdrew the petition. The Board allowed the withdrawal of the petition, the papers remaining on file in this office.

XXXI.

IN THE MATTER OF THE COMPLAINT OF S. W. HOYT AND OTHERS, OF OTISVILLE, AGAINST THE ERIE RAILROAD COMPANY.

March 8, 1899.

S. W. Hoyt, of Otisville, complained that at a point near Otisville a highway was within two feet of the Erie Railroad, making a dangerous situation. After correspondence, and an investigation of the matter by a member of this Board, the company informed the Board, under date of March 4, 1899, that it would, during the coming spring or early summer, undertake to widen the highway at the point complained of.

XXXII.

IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY FOR APPROVAL OF AN INTERLOCKING SWITCH AND SIGNAL SYSTEM.

March 21, 1899.

This application, under section 36 of the Railroad Law, was filed with the Board on March 1st. It asks the approval of the Board of a proposed joint interlocking switch and signal system which is to be established at Binghamton at a grade crossing of the Erie and the Delaware, Lackawanna and Western Railroads. Accompanying the application is a blue print showing the device. The inspector of the Board made an inspection of the crossing and reported, recommending that the plan be approved.

The application is hereby granted and "the full stop and crossing on signal" of trains at this crossing need not be maintained after the installation of such interlocking switch and signal system.

XXXIII.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE, LAKESIDE AND BALDWINSVILLE RAILWAY COMPANY, UNDER SECTION 68 OF THE RAILROAD LAW, FOR A DETERMINATION AS TO THE MANNER IN WHICH ITS RAILROAD SHALL CROSS THE RAILROAD OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY.

March 29, 1899.

This application was filed with the Board on February 28, 1899. It appears that the route of the Syracuse, Lakeside and Baldwinsville Railway, extending from Syracuse to Baldwinsville, crosses the Delaware, Lackawanna and Western Railroad at a point near Stiles station. The petition asks the Board to determine whether the petitioner's railroad shall cross the steam railroad, at said point, above, below or at the grade of such steam railroad. A public hearing was given on said application, after due notice, on Tuesday, March 14, 1899, in the city of Albany. William Nottingham appeared for the applicant; William F. Jenney for the Delaware, Lackawanna and Western Railroad Company, in opposition. An engineer employed by the Board made an inspection and report on the conditions at the proposed point of crossing.

From the facts presented at the hearing and in the report of the engineer, the Board determines that the crossing shall be above the grade of the Delaware, Lackawanna and Western Railroad, and that the bridge shall be at least twenty-one feet in the

clear above the top of the rails of said railroad; also, that the expense of such crossing and all costs connected therewith shall be borne in total by the applicant, the Syracuse, Lakeside and Baldwinsville Railway. The plans for the bridge must be submitted to this Board before the work is begun.

In accordance with the terms of this determination, the plans for the bridge were submitted to this Board by the applicant and were approved by the Board on April 12, 1899.

XXXIV.

IN THE MATTER OF THE COMPLAINT OF WILLIAM THORPE, AS TO STEAM AND ELECTRIC RAILROAD CROSSINGS OF HIGHWAYS ON STATEN ISLAND.

May 3, 1899.

This complaint was filed with this Board on April 4, 1899, by William Thorpe. It alleged that there were several crossings of highways and steam railroads on Staten Island which should be protected. Mr. Thorpe was informed of the law upon the subject, it being within the power of local authorities to apply to the courts for the stationing of flagmen or erection of gates at highway crossings of steam railroads. Inspections of points where electric railroads cross steam railroads on Staten Island were made by the electrical expert of this Board, who reported making certain recommendations. These recommendations were made the requirements of this Board, under chapter 466 of the Laws of 1898, and the Staten Island Electric Railroad Company and the Staten Island Midland Railroad Company were notified of such requirements.

XXXV.

IN THE MATTER OF THE APPLICATION OF THE TOWN OF POLAND, CHAUTAUQUA COUNTY, UNDER SECTION 61 OF THE RAILROAD LAW.

May 15, 1899.

This application was filed with this Board on November 28, 1898. It appears that the applicant has complied with the preliminary provisions of section 61 of the Railroad Law. The petition sets forth that the applicant has determined that a new highway, crossing the railroads of the Erie Railroad Company and the Nypano Railroad Company, in said town, is necessary,

and asks this Board to determine whether such crossings shall be made over or under said railroads, or at the grade thereof. Notice of hearing before this Board, as required by section 61, was duly given. The matter came on for hearing at Jamestown, on April 25, 1899. E. E. Woodbury appeared for the applicant; George F. Brownell and Jerome B. Fisher for the Erie and Nypano Railroad Companies, in opposition. The applicant desires that the crossings may be made at grade. This is opposed by the companies. The Board visited the proposed point of crossing. An inspection of the locality and a report were also made by an engineer of this Board.

After careful consideration of the matter, the Board concludes that the proposed crossings should not be made at grade. It, therefore, determines that the highway shall be carried across the railroads above grade. When the applicant signifies to the Board its readiness to carry the highway across the railroads above grade, the Board will then determine the height, length and material of the bridge or structure by means of which said highway shall be carried across said railroads, and the length, character and grades of the approaches thereto.

The applicant signified to the Board its readiness to carry the highway across the railroads, above grade, and asked the Board to determine the height, length and material of the bridge or structure by means of which said highway shall be carried across said railroads, and the length, character and grades of the approaches thereto. The Board notified the railroad companies to this effect, and asked them if they would confer with the town authorities as to plans for the proposed bridge. The companies replied, stating that they would prepare plans for the work, submitting them first to the town authorities and then to this Board. The attorney for the town was notified to this effect. The plans have not yet been submitted to this Board.

XXXVI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING AND DISCONTINUANCE OF THE DEPOT CROSSING OF ITS RAILROAD IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 17, 1899.

This petition by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It petitioned the Board to determine that a grade crossing of its railroad, known as the depot crossing, in the town of Hempstead, County of Nassau, near the Lawrence station of said railroad, should be closed and discontinued, the

travel thereon to be diverted to other highways and crossings in the vicinity. A hearing in the matter was given by the Board at Valley Stream, on Wednesday, May 17, 1899. It appearing that the crossing in question was not a regularly laid out highway crossing, the company withdrew its petition.

XXXVII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE DISCONTINUANCE OF A GRADE CROSSING OF ITS RAILROAD KNOWN AS GROVE AVENUE, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY.

May 20, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on February 8, 1899. It petitioned the Board to determine that a crossing of its railroad by a highway known as Grove avenue, in the town of Brookhaven, Suffolk county, about three-quarters of a mile east of Patchogue station on said railroad, should be closed and discontinued, the travel to be diverted to another crossing in the vicinity. A public hearing in the matter was given by this Board at the village of Patchogue on Saturday, May 20, 1899. It appearing that the crossing in question was not a regularly laid out highway crossing, the company withdrew its petition.

XXXVIII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE HUSTED ROAD OR BAYVIEW CROSSING OF SAID RAILROAD, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Husted road or Bayview avenue, in the town of Brookhaven, Suffolk county, about 1,410 feet west of

the Eastport station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to other highways and crossings at grade of said railroad in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board at Eastport, L. I., on Saturday, May 20, 1899. A. A. Gardner appeared for the petitioner; T. M. Griffing, for the supervisor of the town of Brookhaven, and Gilbert W. Rayner and David Dayton, property owners, in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

XXXIX.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE DEPOT ROAD CROSSING OF SAID RAILROAD IN THE TOWN OF ISLIP, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as the depot road, in the town of Islip, Suffolk county, about one hundred and ninety feet east of the Great River station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to other highways and crossings at grade in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board, at Islip, L. I., on Friday, May 19, 1899. A. A. Gardner appeared for the petitioner; Joseph Wood for the supervisor of the town of Islip, in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

XL.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE CHINA AVENUE CROSSING OF ITS RAILROAD, IN THE TOWN OF ISLIP, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as China avenue, in the town of Islip, Suffolk county, about four hundred feet east of the Sayville station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to another crossing at grade in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board at Bayport, L. I., on Friday, May 19, 1899. A. A. Gardner appeared for the petitioner; Joseph Wood for the supervisor of the town of Islip, in opposition, and Francis W. Wheeler, a property owner, also appeared in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied. It is said that it is proposed to move a freight house, which is near the China Avenue crossing, and when this is done it will simplify the matter and the petition to this Board may be renewed.

XLI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO CLOSING THE DIVISION AVENUE CROSSING OF ITS RAILROAD IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the closing and discontinuance of a highway grade crossing of its railroad, known as Division avenue, about one thousand seven hundred and twenty-five feet west of the Patchogue station of said railroad, in the town of Brookhaven, Suffolk county, and

prays that said crossing be closed and discontinued and that the travel thereon be diverted, by the construction of a new piece of highway, for a short distance on the southerly side of the railroad, to another grade crossing of the said railroad, known as the River avenue crossing. A public hearing, after notice as required by the statute, was given by the Board at Bayport, L. I., on Friday, May 19, 1899, at 3 o'clock p. m. A. A. Gardner appeared for the petitioner; Allan S. Jones, Forest Jones and George Jones in opposition; H. A. Tenney, Abraham Bailey, Reuben Rowley, R. J. McNeil, Jacob J. Murray and Edwin Bailey appeared in favor of the petition. The Board inspected the crossing and locality.

It seems to the Board that public safety requires that the crossing be closed and discontinued. It, therefore, determines that the crossing of the Long Island Railroad by the highway known as Division avenue, in the town of Brookhaven, Suffolk county, about one thousand, seven hundred and twenty-five feet west of the Patchogue station of said railroad, shall be closed and discontinued, and that the travel thereon shall be diverted to the River avenue crossing of said railroad, about two hundred and seventy feet west of the Division avenue crossing, by the construction of a new piece of highway for a short distance on the southerly side of the railroad and by existing highways, provided that the said Division avenue crossing shall not be closed until the new piece of highway shall be constructed and the work approved by this Board.

Following this determination, an engineer of the Board made a survey and plan showing the new piece of highway to be constructed in accordance with the determination. A copy of this plan was sent to the company and to the supervisor of the town. A communication was received from the attorney for the supervisor of the town, stating that the town desired the new piece of highway to be three rods in width and to extend somewhat further east. The Board finally determined that the new piece of highway should be fifty feet in width, which would necessitate its extension as far east as the town board desired. Proceedings are pending to acquire the necessary land for the new piece of highway.

XLII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO CLOSING A CROSSING OF SAID RAILROAD ABOUT 2,270 FEET WEST OF THE EDGEMERE STATION ON SAID RAILROAD.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on

March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of its railroad by a highway about two thousand, two hundred and seventy feet west of the Edgemere station on said railroad, in the city of New York, and prays that such grade crossing be closed and discontinued, the travel thereon to be diverted to other highways and grade crossings in the vicinity. A public hearing was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the applicant; James T. Malone, assistant corporation counsel, for the city of New York, in opposition; William Scheer, for property owners, also appeared in opposition. The Board inspected the crossing and locality.

It appears that notice to owners of adjoining property was not given as required by the statute. The prayer of the petition is, therefore, denied, at this time. The petition may be renewed.

XLIII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO CLOSING THE SMITHS ROAD CROSSING OF ITS RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of its railroad by a highway known as Smiths road, in the town of Hempstead, Nassau county, about five thousand seven hundred and seventy feet east of the Freeport station on said railroad, and prays that said crossing be closed and discontinued and that the travel thereon be diverted, by the construction of a new piece of highway, to the next grade crossing east, known as the Hempstead and Babylon turnpike crossing. A public hearing, after notice as required by the statute, was given by the Board at Freeport, L. I., on Thursday, May 18, 1899. A. A. Gardner appeared for the petitioner; Frank Walker and Charles W. Smith, property owners, appeared in opposition. Charles C. Smith, property owner, also appeared. The Board inspected the crossing and locality.

It seems to the Board that public safety requires that the crossing be closed and discontinued. It, therefore, determines that the crossing of the Long Island Railroad by the highway

known as Smiths road, in the town of Hempstead, Nassau county, about five thousand seven hundred and seventy feet east of the Freeport station on said railroad, shall be closed and discontinued, and that the travel thereon be diverted to the next highway east, known as the Hempstead and Babylon turnpike, by the construction of a new piece of highway, provided that the said Smiths road crossing shall not be closed until the new piece of highway shall be constructed and the work approved by this board.

Following this determination, an engineer for this Board made a survey and plan showing the new piece of highway to be constructed in accordance with the determination, copy of which plan was transmitted to the railroad company and to the supervisor of the town of Hempstead.

XLIV.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE EARLE AVENUE CROSSING OF SAID RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY, ABOUT 850 FEET EAST OF THE LYNBROOK STATION ON SAID RAILROAD.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Earle avenue, in the town of Hempstead, Nassau county, about eight hundred and fifty feet east of the Lynbrook station on said railroad, and prays that said grade crossing shall be closed and discontinued, the travel thereon to be diverted to other highways and crossings of said railroad at grade in the vicinity. A public hearing, after notice as required by the statute, was given by the Board at Freeport, L. I., on Thursday, May 18, 1899. A. A. Gardner appeared for the petitioner; George Wallace, James H. Van Gelder, D. D. McKoon and Robert Dible, property owners, appeared in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

XLV.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE CHRISTIAN HOOK ROAD CROSSING OF SAID RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as the Christian Hook road, in the town of Hempstead, Nassau county, about four thousand two hundred and eighty feet east of the Rockville Centre station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to the next grade crossing east by the construction of a connecting piece of highway. A public hearing, after notice as required by the statute, was given by the Board at Freeport, L. I., on Thursday, May 18, 1899. A. A. Gardner appeared for the petitioner; John Lyon and George Wallace for property owners, in opposition; Weller & Gillen for the village of Rockville Centre, in opposition; Thomas T. Ramsden, Smith Combes and Henry T. Golden, highway commissioners of the town of Hempstead, and Smith Cox, supervisor of said town, also appeared in opposition. The Board inspected the crossing and locality.

It seems likely that a mistake was made in the name of the crossing sought to be abolished. The highway to which the travel is sought to be diverted, seems to be locally known as the Christian Hook road, and the crossing in reference to which this application is made seems to be locally known as the Pettit road. The prayer of the petition is denied.

XLVI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO CLOSING THE CEDAR AVENUE CROSSING OF SAID RAILROAD IN ARVERNE, NEW YORK CITY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March

29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of its railroad by a highway known as Cedar avenue, in Arverne, New York city, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to other grade crossings of said railroad in Arverne. A public hearing, after notice, as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; James T. Malone, assistant corporation counsel, appeared for the city of New York in opposition; William Scheer, for property owners, also appeared in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

XLVII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO CLOSING THE ATLANTIC AVENUE CROSSING OF ITS RAILROAD IN ARVERNE, NEW YORK CITY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of its railroad by a highway known as Atlantic avenue, in Arverne, New York city, and prays that said crossing be closed and discontinued, the travel thereon to be diverted to other crossings at grade of the railroad in Arverne. A public hearing, after notice, as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; James T. Malone, assistant corporation counsel, appeared for the city of New York in opposition; William Scheer, for property owners, also appeared in opposition. The Board inspected the crossing and locality.

It seems to the Board that public safety requires that the crossing be closed and discontinued. The Board, therefore, determines that the crossing of the Long Island Railroad by a highway known as Atlantic avenue, in Arverne, New York city, shall be closed and discontinued and that the travel thereon be diverted to other crossings of the railroad in Arverne.

The Board is informed that the papers in the matter of the closing of this crossing were referred to the Corporation Counsel of New York city by the Highway Department.

XLVIII.

IN THE MATTER OF THE PETITION OF THE NEW YORK AND ROCKAWAY BEACH RAILWAY COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE ABOLISHMENT OF A GRADE CROSSING OF ITS RAILWAY BY TROTTHING COURSE LANE, IN WARD 2 OF THE BOROUGH OF QUEENS, NEW YORK CITY.

May 24, 1899.

This petition, by the New York and Rockaway Beach Railway Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of its railway by a highway known as Trotting Course lane, in ward 2 of the borough of Queens, city of New York, and prays that said crossing shall be closed and discontinued and that the travel thereon be diverted to an overhead crossing of said railway by means of graded approaches and a highway bridge over said railway, said overhead crossing to be located at a point 100 feet, approximately, eastward of the present grade crossing. A public hearing, after notice as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; James T. Malone, assistant corporation counsel, and John P. Madden, deputy highway commissioner, appeared for the city of New York in opposition; Jeromus Vanderveer and David Springsteen, property owners, also appeared in opposition. The Board inspected the crossing and locality.

It seems to the Board that public safety requires that the crossing be closed and discontinued and that the travel thereon be diverted to an overhead crossing to be constructed over the railway. The Board, therefore, determines that the crossing of the New York and Rockaway Beach Railway by the highway known as Trotting Course lane, in ward 2 of the borough of Queens, city of New York, shall be closed and discontinued and that the travel thereon shall be diverted to an overhead crossing of said railway by means of graded approaches and a highway bridge over said railway, said overhead crossing to be located at a point 100 feet, approximately, eastward of the present grade crossing, provided that said Trotting Course lane crossing shall not be closed until the new overhead crossing shall be constructed and the work approved by this Board.

The Board has been informed that the papers in the matter of this determination were referred to the corporation counsel of New York city, by the Department of Highways.

XLIX.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE OVERTON AVENUE CROSSING OF SAID RAILROAD, IN THE TOWN OF ISLIP, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Overton avenue, in the town of Islip, Suffolk county, about one thousand five hundred feet east of the Sayville station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to other highways and crossings at grade of said railroad. A public hearing, after notice, as required by the statute, was given by the Board, at Bayport, L. I., on Friday, May 19, 1899. A. A. Gardner appeared for the petitioner; A. H. Carman for property owner, Joseph Wood for the supervisor of the town of Islip, Michael Venowitch and Julius Hauser, in opposition. The Board inspected the crossing and locality.

There is considerable doubt as to this crossing being a lawful highway crossing of the railroad. The prayer of the petition is denied.

This crossing has been made a farm crossing only.

L.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF HYDE'S CROSSING OF SAID RAILROAD, IN THE TOWN OF ISLIP, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It alleges that public safety requires the clos-

ing and discontinuance of Hyde's grade crossing of said railroad, in the town of Islip, Suffolk county, and prays that said grade crossing be closed and discontinued. A public hearing, after notice, as required by the statute, was given by the Board at Babylon, L. I., on Friday, May 19, 1899. A. A. Gardner appeared for the petitioner; Joseph M. Belford, for property owner, and Joseph Wood, for the supervisor of the town of Islip, in opposition. The Board inspected the crossing and locality. This crossing seems to be a private crossing.

The prayer of the petition is denied, but the Board suggests that, if it is a private or farm crossing, that gates be placed in the railroad fences, to be open only when the crossing is in actual use.

This crossing has been made a farm crossing only.

LI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE CHAPEL LANE CROSSING OF SAID RAILROAD, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on February 8, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Chapel lane, in the town of Brookhaven, Suffolk county, about six thousand four hundred and seventy feet east of the Patchogue station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to another crossing at grade of said railroad in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board at Patchogue, L. I., on Saturday, May 20, 1899. A. A. Gardner appeared for the petitioner; T. M. Griffing, for the supervisor of the town of Brookhaven, and Henry W. Payne and other property owners, in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

LII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE PINE NECK AVENUE CROSSING OF SAID RAILROAD, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on February 8, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Pine Neck avenue, in the town of Brookhaven, Suffolk county, about 6,770 feet east of the Patchogue station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to another crossing at grade of said railroad in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board at Patchogue, L. I., on Saturday, May 20, 1899. A. A. Gardner appeared for the petitioner; T. M. Griffing, for the supervisor of the town of Brookhaven; C. R. Smith, for property owner, and James C. King, property owner, in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

LIII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE JACKSON AVENUE CROSSING OF SAID RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Jackson avenue, in the town of Hempstead, Nassau county, about 1,930 feet east of the Wantagh station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to other highways and crossings of said railroad at grade in the vicinity. A public

hearing, after notice, as required by the statute, was given by the Board at Freeport, L. I., on Thursday, May 18, 1899. A. A. Gardner appeared for the petitioner; Albert W. Seaman for property owners in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining, at this time, that this crossing should be closed. The prayer of the petition is, therefore, denied.

LIV.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE JONES AVENUE CROSSING OF ITS RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Jones avenue, in the town of Hempstead, Nassau county, about four thousand, seven hundred and ten feet east of the Bellmore station on said railroad, and prays that said crossing be closed and discontinued, the travel thereon to be diverted to other crossings at grade of said railroad in the vicinity. A public hearing, after notice as required by the statute, was given by the Board at Freeport, L. I., on Thursday, May 18, 1899. A. A. Gardner, appeared for the petitioner; Thomas B. Seaman, a property owner, in opposition. The Board inspected the crossing and locality.

It seems to the Board that public safety requires that the crossing be closed and discontinued. The Board, therefore, determines that the crossing of the Long Island Railroad by a highway known as Jones avenue, in the town of Hempstead, Nassau county, about four thousand seven hundred and ten feet east of the Bellmore station on said railroad, shall be closed and discontinued and that the travel thereon be diverted to other highways and crossings at grade of the railroad in the vicinity.

This crossing has been closed.

LV.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE PROSPECT AVENUE CROSSING OF ITS RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY, ABOUT 3,760 FEET FROM THE WOODSBURGH STATION ON SAID RAILROAD.

May 24, 1899.

This petition, by the Long Island Railroad Company, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a crossing of said railroad by a highway known as Prospect avenue, in the town of Hempstead, Nassau county, about three thousand seven hundred and sixty feet from the Woodsburgh station on said railroad, and prays that said crossing be closed and discontinued, the travel thereon to be diverted to other crossings of said railroad in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; Thomas Cort, a property owner, in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining at this time that this crossing should be closed. The prayer of the petition is, therefore, denied.

LVI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE LYNWOOD AVENUE CROSSING OF ITS RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Lynwood avenue, in the town of Hempstead, Nassau county, about four thousand two hundred feet from the Woodsburgh station on said railroad, and prays that said crossing be closed and discontinued, the travel thereon to be diverted to other crossings at grade of said railroad in the vicinity. A public hearing, after notice as required by the statute, was given by the Board at Valley Stream,

L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; Archibald Mutch for citizens of Cedarhurst, in opposition; and James H. P. Vandewater, a property owner, also in opposition. The Board inspected the crossing and locality.

It does not seem to the Board that it would be justified in determining at this time that this crossing should be closed. The prayer of the petition is, therefore, denied.

LVII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE SWAMP ROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

May 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a highway grade crossing of its railroad, known as the Swamp road, about 7,430 feet from the Valley Stream station of said railroad, in the town of Hempstead, Nassau county, said crossing being numbered 815 on a list of crossings of the Long Island railroad filed with this Board, and prays that said crossing be closed and discontinued and that the travel thereon be diverted, by the construction of a new piece of highway, for a short distance, to another grade crossing of the said railroad known as West Broadway, and numbered 816 on the aforesaid list of crossings filed with this Board. A public hearing, after notice, as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; Thomas Sprague, C. R. Bettes, Frank Horton and Frank G. Holley in opposition. The Board inspected the crossing and locality.

It seems to the Board that public safety requires that the crossing be closed and discontinued. It, therefore, determines that the crossing of the Long Island Railroad by the highway known as the Swamp road, about seven thousand four hundred and thirty feet from the Valley Stream station of said railroad, in the town of Hempstead, Nassau county, said crossing being numbered 815 on a list of crossings of the Long Island Railroad, filed with this Board, shall be closed and discontinued, and that the travel thereon shall be diverted, by the construction of a new

piece of highway, for a short distance, and by existing highways, to another crossing of the said railroad known as West Broadway, and numbered 816 on the aforesaid list of crossings filed with this Board, provided that the said Swamp Road crossing shall not be closed until the new piece of highway shall be constructed and the work approved by this Board.

Subsequently, a survey and plan of the proposed new piece of highway referred to in the above determination was made by an engineer of this Board, and a copy of the plan was transmitted to the company and to the supervisor of the town.

LVIII.

IN THE MATTER OF THE COMPLAINT OF VAN R. WEAVER, OF UTICA,
AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD
COMPANY.

May 24, 1899.

Under date of May 16, 1899, Van R. Weaver, of Utica, wrote to this Board, alleging that the Genesee street, Utica, grade crossing of the New York Central and Hudson River Railroad is very dangerous. This crossing is protected by gates. The complainant was informed that if an overhead bridge at the crossing was desired, the application should be made to this Board by the mayor and common council of the city of Utica, under the law.

LIX.

IN THE MATTER OF THE COMPLAINT OF W. W. BINGHAM, OF SALEM,
WASHINGTON COUNTY, AGAINST THE DELAWARE AND HUDSON
COMPANY.

May 25, 1899.

This complaint was filed with this Board on May 9, 1899. It alleged that the Main street grade crossing, in the village of Salem, of the railroad operated by the Delaware and Hudson Company was dangerous. An inspection of the crossing was made by an inspector of the Board, who reported that the crossing was not an unusually dangerous one, but recommended that one of the yard brakemen be placed at the crossing during hours when cars are being switched over it, to act as flagman. This recommendation was made the recommendation of this Board, and the company notified. The company answered, stating that it would comply with the recommendation, and the case was closed.

LX.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF BRIGHTON, MONROE COUNTY, UNDER SECTION 61 OF THE RAILROAD LAW.

June 7, 1899.

This petition, by the town board of the town of Brighton, was filed with this Board on January 31, 1899. It asked the Board for a determination of the manner in which a highway running from East avenue to the Penfield road in said town, said highway being a continuation of the Clover street road, should cross the New York Central and Hudson River Railroad. A hearing in the matter, after notice, as required by the statute, was given by the Board in the city of Rochester, on June 7, 1899, and after hearing arguments as to the town giving the railroad company notice of hearing on the question of the necessity for the crossing, under section 61 of the Railroad Law, the Board held that such notice was necessary, and it appearing that it had not been given in this case, the Board decided not to entertain the application at that time. Subsequently, the town proceeded in accordance with the provisions of section 61, and has again made application to the Board for a determination as to the manner of crossing.

LXI.

IN THE MATTER OF THE PETITION OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW.

June 14, 1899.

This petition, by the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, was filed with this Board on May 2, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as the Abbott road crosses its railroad near the Windom station on said railroad and prays this Board to determine that said crossing shall be changed from grade and the highway carried beneath the railroad. The petition is signed and verified by the president of the petitioner. A public hearing, after notice as required by the statute, was given by the Board in the city of Buffalo, on Tuesday, June 6, 1899, at 10 o'clock a. m. John S. Rockwell appeared for the applicant; Fayette Kelly for the town of Hamburg; George Briggs for the town of East Hamburg; W. J. Benedict for Mrs. Bassett, a property owner; James J. Lawless for himself, as a property owner; John Titus for himself, as

a property owner; Adam Benzing for the Buffalo, Hamburg and Aurora Railroad Company.

From the evidence submitted at the hearing, the Board is of the opinion that the crossing at grade should be abolished and the highway carried beneath the railroad. The Board, therefore, determines that public safety requires that the crossing at grade of the Buffalo, Rochester and Pittsburgh Railway, by a highway known as the Abbott road, near the Windom station on said railway, shall be abolished, and that the highway shall be carried beneath the railway in its present line. The said crossing shall not be closed until the new undercrossing is completed, or if it shall appear that the existing grade crossing must be closed to permit the construction of the new crossing, a temporary crossing at grade shall be made.

Proposals of contractors for doing the work referred to in the above determination have been approved by this Board.

LXII.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF LEICESTER, LIVINGSTON COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

June 14, 1899.

This petition, by the town board of the town of Leicester, Livingston county, under section 62 of the Railroad Law, was filed with this Board on January 16, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as the Mount Morris road, in said town, crosses the railroad of the Delaware, Lackawanna and Western Railroad Company, and petitions the Board to determine that the crossing be changed from a grade crossing to one underneath the railroad. The petition is signed and verified by the members of the town board. A public hearing, after notice as required by statute, was given by the Board in the city of Rochester, on June 7, 1899. John F. White, supervisor, and E. B. Keeney, highway commissioner, appeared for the town board; James Archbald for the Delaware, Lackawanna and Western Railroad Company. A survey and report of the conditions at the locality in question were made by an engineer of this Board. He reports that a feasible way to abolish the grade crossing is to construct a new piece of highway on the easterly side of the railroad, connecting the Mount Morris road with the existing highway next south, which now crosses underneath the railroad and connects with

the Mount Morris road a short distance from the railroad on the westerly side thereof. The new piece of highway will be about six hundred and fifty-five feet long. At the hearing, representatives of the town and the railroad agreed that the construction of the new piece of highway was a practicable method of eliminating the grade crossing.

The Board deems that public safety requires the closing and discontinuance of the existing grade crossing. It, therefore, determines that the crossing of the Delaware, Lackawanna and Western Railroad, by a highway known as the Mount Morris road, in the town of Leicester, Livingston county, shall be closed and discontinued, and that the travel thereon shall be diverted to the next crossing south, which is an undercrossing, by the construction of a connecting piece of highway upon the easterly side of the railroad. The said Mount Morris road crossing, however, shall not be closed until the new piece of highway is constructed and ready for travel.

The new piece of highway referred to in the above determination has been constructed, the Mount Morris road crossing of the railroad has been closed and the travel thereon has been diverted to the undercrossing.

LXIII.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE, LAKESIDE AND BALDWINSVILLE RAILWAY COMPANY, UNDER SECTION 68 OF THE RAILROAD LAW, FOR A DETERMINATION AS TO THE MANNER IN WHICH ITS RAILROAD SHALL CROSS THE RAILROAD OF THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY, ON WATER STREET, IN THE VILLAGE OF BALDWINSVILLE.

June 14, 1899.

This application was filed with this Board on March 1, 1899. It appears that the route of the Syracuse, Lakeside and Baldwinsville Railway, extending from Syracuse to Baldwinsville, will cross a spur-track of the Delaware, Lackawanna and Western Railroad on Water street, in the village of Baldwinsville, near the Syracuse street bridge over the Seneca river. The application asks the Board to determine whether the applicant's railroad shall cross this spur at said point, above, below or at the grade thereof. A public hearing on said application, after notice, was given by the Board in the city of Albany, on Tuesday, March 14, 1899, at 10 o'clock a. m. William Nottingham appeared for the applicant; William F. Jenney for the Delaware, Lackawanna and Western Railroad Company, in opposition. An

engineer employed by the Board made an inspection and report on the conditions at the proposed point of crossing.

From the facts presented at the hearing and in the report of the engineer, the Board hereby determines, under section 68 of the Railroad Law, that the railroad of the Syracuse, Lakeside and Baldwinsville Railway Company may cross, at grade, the spur-track of the Delaware, Lackawanna and Western Railroad on Water street, in the village of Baldwinsville, near the Syracuse street bridge over the Seneca river. It is hereby provided, however, that derailing switches shall be placed in the street railroad, on each side of the steam railroad, to be operated by the conductors of the street railroad company, the manner of construction and operation of which shall be subject to the approval of this Board. It is also hereby provided that the expense of such crossing and derailing switches shall be borne in total by the applicant, the Syracuse, Lakeside and Baldwinsville Railway Company.

LXIV.

IN THE MATTER OF THE APPLICATION OF THE CITY OF BUFFALO,
UNDER SECTION 61 OF THE RAILROAD LAW.

June 14, 1899.

This application, by the city of Buffalo, under section 61 of the Railroad Law, was filed with this Board on March 17, 1899. It appears that the applicant has complied with the preliminary provisions of section 61 of the Railroad Law. The application sets forth that the applicant has determined that a crossing of the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company) by Goodyear avenue, in said city, is necessary, and asks this Board to determine the manner of crossing, a grade crossing being desired. Notice of hearing before this Board, as required by the statute, was duly given. The matter came on for hearing at Buffalo, on Tuesday, June 6, 1899. Henry W. Killeen appeared for the applicant; Charles A. Pooley for the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad.

After careful consideration of the evidence given at the hearing, the Board concludes that the proposed crossing should not be made at grade. The Board, therefore, determines, under section 61 of the Railroad Law, that Goodyear avenue, in the city of Buffalo, shall be carried across the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company) beneath the grade of said West Shore Railroad. When the ap-

licant signifies to the Board its readiness to carry the street under the railroad, the Board will then determine the manner and method by which the same shall be so carried under and the grade or grades thereof.

The city has not applied to this Board for a determination of the manner and method by which the street, referred to in the above determination, shall be carried under the railroad.

LXV.

IN THE MATTER OF THE APPLICATION OF THE VILLAGE OF CELERON,
CHAUTAUQUA COUNTY, UNDER SECTION 61 OF THE RAILROAD LAW.

June 14, 1899.

This application, by the village of Celeron, Chautauqua county, under section 61 of the Railroad Law, was filed with this Board on March 25, 1899. It appears that the applicant has complied with the preliminary provisions of section 61 of the Railroad Law. The application sets forth that a new street, known as Dunham avenue, in the village of Celeron, crossing the Erie Railroad and Nypano Railroad, is necessary, and asks this Board to determine whether such crossing shall be made over or under said railroads or at the grade thereof. Notice of hearing before this Board, as required by section 61, was duly given. The matter came on for hearing in Jamestown, on April 25, 1899. E. E. Woodbury appeared for the applicant; George F. Brownell and Jerome B. Fisher appeared for the Erie and Nypano Railroad Companies. After hearing evidence and arguments, the hearing was held open, pending the consideration by the village of the matter of abolishing an existing grade crossing and the diversion of the travel thereon to an overhead crossing to be constructed at Dunham avenue. Subsequently, and under date of May 31, the applicant notified the Board that it desired another hearing in the matter. Tuesday, June 13, at 10 o'clock a. m., in Albany, was fixed as the date for such hearing. At that time the applicant appeared by letter and submitted its case. Jerome B. Fisher appeared for the Erie Railroad Company. At the hearing in Jamestown, the Board visited the proposed point of crossing.

The Board is of the opinion that the proposed crossing should be made above the grade of the railroads. It, therefore, determines that the highway known as Dunham avenue, in the village of Celeron, Chautauqua county, shall be carried across the Erie Railroad and the Nypano Railroad, above grade. When the ap-

plicant signifies to the Board its readiness to carry the highway across the railroads, above the grade thereof, the Board will then determine the height, length and material of the bridge or structure by means of which said highway shall be carried across said railroads, and the length, character and grades of the approaches thereto.

The village notified the Board of its readiness to carry the highway across the railroad, above the grade thereof, and asked the Board to determine the height, length and material of the proposed bridge or structure, and the length, character and grades of the approaches thereto. The Board communicated with the companies and asked if they would prepare the necessary plans, stating that if they would they should consult with the village authorities as to what the bridge should be. The companies answered that they would prepare the plans and would consult with the local authorities. Mr. Woodbury, the attorney for the local authorities, notified the Board that the companies had been in consultation with him in reference to the matter. At the time of writing this report, plans for the bridge, with an estimate of the cost and a resolution of approval from the village authorities, and proposals of contractors, have been filed with this Board for approval.

LXVI.

IN THE MATTER OF THE APPLICATION OF THE TOWN OF DAYTON,
CATTARAUGUS COUNTY, UNDER SECTION 61 OF THE RAILROAD LAW.

June 14, 1899.

This application, by the town of Dayton, Cattaraugus county, under section 61 of the Railroad Law, was filed with this Board on May 9, 1899. It appears that the applicant has complied with the preliminary provisions of section 61 of the Railroad Law. The application sets forth that the applicant has determined that a new highway, crossing the Erie Railroad, in said town, is necessary, and it asks this Board to determine the manner of carrying said proposed highway across said railroad. The matter came on for hearing at Buffalo, on June 6, 1899, after notice as required by the statute. James E. Bixby appeared for the applicant; Adelbert Moot for the Erie Railroad Company. The applicant desires that the crossing may be made at grade. This is opposed by the company. An inspection of the locality and a report were made by an engineer of this Board. It appeared at the hearing and from the report of the Board's engineer, that an existing highway can be continued on the east side of the railroad for a distance of about one and one-half miles, which would accommodate the travel designed to be accommodated by the proposed crossing and result in a much less use of an existing grade crossing.

After careful consideration of the matter, the Board concludes that the proposed crossing should not be made at grade. It, therefore, determines that the highway shall be carried across the railroad above grade. When the applicant signifies to the Board its readiness to carry the highway across the railroad above grade, the Board will then determine the height, length and material of the bridge or structure by means of which said highway shall be carried across said railroad, and the length, character and grades of the approaches thereto.

In this matter, the municipal authorities of the town of Dayton have served upon the Board a notice of appeal to the Appellate Division of the Supreme Court. This notice has been turned over to the Attorney-General.

LXVII.

IN THE MATTER OF THE PETITION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF BINGHAMTON, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO BEVIER STREET.

June 28, 1899.

This petition, by the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, was filed with this Board on June 12, 1899. It alleges that public safety requires an alteration in the manner in which Bevier street in said city crosses the Syracuse, Binghamton and New York Railroad and the Albany and Susquehanna Railroad (operated by the Delaware and Hudson Company), and proposes that said Bevier street be carried under the said railroads. The petition also refers to the Chenango street crossing, which matter is not at this time completed. The railroads where they cross Bevier street are about one hundred and twenty-five feet apart, necessitating the building of a crossing under each of said railroads. The petition is signed and verified by the proper city officials. A public hearing, after notice as required by the statute, was given by the Board in the city of Binghamton, on Wednesday, June 28. Jerome De Witt, mayor, and Frank Stewart, corporation counsel, appeared for the city; C. D. Hammond appeared for the Delaware and Hudson Company; D. S. Richards appeared for the Syracuse, Binghamton and New York Railroad in opposition to the petition. The Board inspected the crossings.

From the evidence submitted at the hearing and from its inspection of the crossings, the Board is of the opinion that the grade crossings should be abolished and the street carried under

the railroads. The Board, therefore, determines that public safety requires that the crossings at grade of the Syracuse, Binghamton and New York and the Albany and Susquehanna (leased to the Delaware and Hudson Company) railroads by Bevier street in the city of Binghamton, shall be abolished, and that said Bevier street shall be carried beneath the said railroads on the present line of the street. The said crossings shall not be closed until the new undercrossings are completed, or if it shall appear that the existing grade crossings must be closed to permit the construction of the undercrossings, temporary crossings at grade shall be made.

At the time of writing this report, the Syracuse, Binghamton and New York Railroad Company has begun the work of carrying Bevier street under its railroad, and the Delaware and Hudson Company has filed with the Board, for approval, plans and specifications of the work to be done in carrying Bevier street under its railroad. It is expected that the work at both crossings will be diligently forwarded.

LXVIII.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 36 OF THE RAILROAD LAW.

July 18, 1899.

This application, under section 36 of the Railroad Law, was filed with this Board on June 12, 1899. It asks the approval of the Board of an interlocking switch and signal apparatus which is in use at a point where the Atlantic division of the applicant's railroad crosses its Manhattan Beach division, at a point known as Manhattan crossing in East New York, so that certain trains may not be compelled to come to a full stop before crossing. An inspection of the crossing and signal apparatus was made by an engineer of the Board, who reported that the interlocking system is incomplete. A hearing in the matter was given in the city of New York, on Wednesday, June 21, 1899, at which W. F. Potter, general superintendent, appeared for the company. An inspection of the crossing and apparatus was also made by members of the Board.

The Board does not feel justified in granting this application, inasmuch as the interlocking system is not as complete as the Board deems it should be. The application is, therefore, denied.

LXIX.

IN THE MATTER OF THE COMPLAINT OF THE COMMON COUNCIL OF THE CITY OF OGDENSBURG, AS TO A CROSSING OF RIVER STREET BY THE ROME, WATERTOWN AND OGDENSBURG RAILROAD (LEASED TO THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY), OF RIVER STREET, AND AS TO A CROSSING OF SAID RAILROAD BY THE OGDENSBURG STREET RAILWAY.

July 19, 1899.

This complaint, by the common council of the city of Ogdensburg, was filed with this Board on October 12, 1898. It alleged that a crossing of River street by the Rome, Watertown and Ogdensburg railroad (leased to the New York Central and Hudson River Railroad Company) and a crossing of the steam railroad by the Ogdensburg Street railway at the point in question, in said city, were dangerous and should be protected. An inspection of the crossing was made by the inspector of this Board, who reported recommending that a flagman be stationed at the crossing, and that derailing switches in the street railway, to be operated by a lever situated on the opposite side of the crossing of the steam railroad, be installed. The Board communicated with complainants and informed them that under section 33 of the Railroad Law, it was within the province of the local authorities to apply to the Supreme Court or County Court for an order that a flagman be stationed at this crossing. In accordance with chapter 466 of the Laws of 1898, the Board notified the Ogdensburg Street Railway Company that it required it to construct in its railroad, on either side of the Rome, Watertown and Ogdensburg railroad, at the crossing in question, a derailing switch, to be located fifty feet from the steam railroad track, to be operated by a lever situated on the opposite side of the crossing, so that the conductors of the street cars should be required to cross the steam railroad and close the derailing switch before the car could proceed over the crossing. After considerable correspondence, the Board was informed by the company that the "derailing switches where our road crosses the R., W. and O. at River street in this city, have been in position and complete operation for about a week."

LXX.

IN THE MATTER OF THE PETITION OF THE PRESIDENT AND TRUSTEES
OF THE VILLAGE OF ADAMS, JEFFERSON COUNTY, UNDER SECTION
62 OF THE RAILROAD LAW.

July 19, 1899.

This petition, under section 62 of the Railroad Law, was filed with this Board by the president and trustees of the village of Adams, Jefferson county, on November 5, 1898. It alleged that public safety required an alteration in the manner in which a street known as Railroad street, in said village, crossed the Rome, Watertown and Ogdensburg division of the New York Central and Hudson River Railroad, and petitioned the Board to determine that said crossing be changed from grade and the highway carried under the railroad. The petition stated that the petitioners reserved the right to withdraw it, if the cost of the proposed change should prove too great. A survey at the crossing and estimate of the expense of the proposed change were made by an engineer of the Board. A statement of the estimate was sent to the petitioners. In reply, the petitioners stated that the cost would be too great, and withdrew the petition. The Board allowed the withdrawal, the papers remaining on file in this office.

LXXI.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN
OF SHERIDAN, CHAUTAUQUA COUNTY, UNDER SECTION 62 OF THE
RAILROAD LAW.

July 19, 1899.

This petition, under section 62 of the Railroad Law, was filed with the Board on November 11, 1898. It alleges that public safety requires an alteration in the manner in which two highways in said town cross the railroads of the Western New York and Pennsylvania Railway Company and the New York, Chicago and St. Louis Railroad Company, at points known as Herrick's crossing and the Red House crossing. The petition is signed and verified by the proper town officials. Several inspections of the crossings were made by the inspectors of the Board, and a plan for an undercrossing of the railroads, to be situated between the existing crossings, was prepared by the Board. A public hearing, after notice, as required by the statute, was given by the Board in the city of Dunkirk, on December 15, 1898. R. A. Shelley, town clerk, and Christian N. Dye, highway commis-

sioner, appeared for the town; D. W. Herrick, a property owner, appeared for himself; Frank Rumsey appeared for the Western New York and Pennsylvania Railway Company, and John G. Milburn for the New York, Chicago and St. Louis Railroad Company. After hearing evidence and arguments, the hearing on the merits was closed, but an adjournment was taken to a date to be thereafter fixed, in order to hear the railroad companies in the matter of the proportions of expense to be borne by each, their tracks immediately adjoining at the points of crossing. Subsequently to the hearing application was made by the town board for the withdrawal of the petition.

From the circumstances in this case, the Board does not feel justified in determining, at this time, that both crossings shall be closed and an undercrossing substituted, to be situated between the existing crossings. The Board, therefore, determines, under section 62 of the Railroad Law, that the westerly, or so-called Red House crossing, be closed and discontinued as a public crossing and be made a private crossing by erecting farm gates, the public travel thereon being diverted to existing highways and crossing. No determination is made as to the so-called Herrick's crossing.

The petitioners were dissatisfied with this determination, and asked for a re-hearing. The Board determined to grant a re-hearing, the date for which has not been fixed at the time of writing this report.

LXXII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO SMITH'S CROSSING, IN THE TOWN OF OYSTER BAY, NASSAU COUNTY.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on February 8, 1899. It asked the Board to determine that a grade crossing of its railroad, by a highway, at a point known as Smith's crossing, in the town of Oyster Bay, Nassau county, about one thousand four hundred and eighty feet west of the Locust Valley station on said railroad, should be closed and discontinued, the travel thereon to be diverted to other highways and crossings. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition.

LXXIII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO SMITH'S CROSSING, IN THE TOWN OF OYSTER BAY, NASSAU COUNTY.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on February 8, 1899. It asked the Board to determine that a grade crossing of its railroad, by a highway, at a point known as Smith's crossing, in the town of Oyster Bay, Nassau county, about one thousand one hundred and fifty feet west of the Locust Valley station on said railroad, should be closed and discontinued, the travel thereon to be diverted to other highways and crossings. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition. This is a distinct crossing from the one named in the preceding number.

LXXIV.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE "DEPOT CROSSING," IN THE TOWN OF SOUTHOLD, COUNTY OF SUFFOLK.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 21, 1899. It petitioned the Board to determine that a grade crossing of its railroad, known as the "depot crossing," in the town of Southold, Suffolk county, at a point about two hundred and ten feet east of the Cutchogue station on said railroad, should be closed and discontinued, the travel thereon to be diverted to other highways and crossings in the vicinity. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition.

LXXV.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING AND DISCONTINUANCE OF THE DEPOT ROAD CROSSING OF ITS RAILROAD, IN THE TOWN OF RIVERHEAD, SUFFOLK COUNTY.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 21, 1899. It petitioned this Board to determine that a grade crossing of its railroad by a highway known as the Depot road, in the town of Riverhead, Suffolk county, about thirty feet west of the Calverton station on said railroad, should be closed and discontinued, the travel thereon to be diverted to other highways and crossings in the vicinity. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition.

LXXVI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING AND DISCONTINUANCE OF A GRADE CROSSING OF ITS RAILROAD, IN THE TOWN OF RIVERHEAD, SUFFOLK COUNTY, KNOWN AS TUTHILL'S CROSSING.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 21, 1899. It petitioned the Board to determine that a grade crossing of its railroad, known as Tuthill's crossing, in the town of Riverhead, Suffolk county, about six thousand and fifty feet east of the Jamesport station on its railroad, should be closed and discontinued, the travel thereon to be diverted to other highways and crossings in the vicinity. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition.

LXXVII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE LA FAYETTE PLACE CROSSING OF ITS RAILROAD, IN THE TOWN OF HEMPSTEAD, NASSAU COUNTY.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as La Fayette place, in the town of Hempstead, county of Nassau, which highway is near Woodmere station on said railroad, and prays that said crossing be closed and discontinued, the travel thereon to be diverted to other highways and crossings at grade of said railroad in the vicinity. A public hearing, after notice as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; W. H. E. Jay appeared for property owners, in opposition. The Board inspected the crossing and locality.

La Fayette place is one of a number of streets in Woodmere crossing the railroad at grade. On one side of it and within a short distance, is a highway known as the Woodsburg boulevard, which crosses the railroad at grade; on the other side of it is a highway known as Irving place, which crosses the railroad at grade. Application was made by the company for the closing of the Irving place crossing, which application is denied by an order of this Board, of this date. La Fayette place is connected with the other highways and crossings in the vicinity by a highway on each side of the railroad and parallel therewith. It appears to the Board that public safety requires that the La Fayette place crossing be closed and discontinued. The Board, therefore, determines that the crossing of the Long Island Railroad by a highway known as La Fayette place, in the town of Hempstead, county of Nassau, which highway is near Woodmere station on said railroad, shall be closed and discontinued, the travel thereon to be diverted to other highways and crossings at grade of the railroad in the vicinity.

LXXVIII.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING OF THE IRVING PLACE CROSSING OF ITS RAILROAD, IN THE TOWN OF HEMPSTEAD, COUNTY OF NASSAU.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on March 29, 1899. It alleges that public safety requires the closing and discontinuance of a grade crossing of said railroad by a highway known as Irving place, in the town of Hempstead, county of Nassau, which highway is near Woodmere station on said railroad, and prays that said grade crossing be closed and discontinued, the travel thereon to be diverted to other crossings at grade of said railroad in the vicinity. A public hearing, after notice, as required by the statute, was given by the Board at Valley Stream, L. I., on Wednesday, May 17, 1899. A. A. Gardner appeared for the petitioner; W. H. E. Jay appeared for property owners, in opposition. The Board inspected the crossing and locality.

The Board has, by order of this date, granted a petition of the company for the closing and discontinuance of the La Fayette place crossing, near the Irving place crossing. It does not seem to the Board that it would be justified in determining, at this time, that the Irving place crossing should be closed. The prayer of the petition is, therefore, denied.

LXXIX.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING AND DISCONTINUANCE OF THE "DEPOT CROSSING" OF ITS RAILROAD, IN THE TOWN OF HUNTINGTON, SUFFOLK COUNTY.

July 19, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 28, 1899. It petitioned the Board to determine that a grade crossing of its railroad, known as the "depot crossing," in the town of Huntington, Suffolk county, about two hundred and seventy-eight feet west of the Huntington station on said railroad, should be closed and discontinued, the travel thereon

to be diverted to other highways and crossings in the vicinity. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition.

LXXX.

IN THE MATTER OF THE COMPLAINT OF THE VILLAGE OF CLYDE
AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD
COMPANY.

July 19, 1899.

This complaint was filed with this Board on June 6, 1899, by the board of trustees of the village of Clyde. It alleged that the crossings of the New York Central and Hudson River Railroad at Glasgow street and Sodus street in said village were not in proper condition, and asked that these crossings be planked. A copy of the complaint was sent to the company, which answered that "the chief engineer of this company has given directions that these crossings be placed in immediate repair." A copy of this answer was sent to complainants, and no reply having been received, the case was closed.

LXXXI.

IN THE MATTER OF THE PETITION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF COHOES, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE ABOLISHMENT OF A GRADE CROSSING OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, BY HIGH STREET, IN SAID CITY.

August 2, 1899.

This petition, by the mayor and common council of the city of Cohoes, under section 62 of the Railroad Law, was filed with this Board on October 14, 1898. It alleged that public safety required an alteration in the manner in which a street known as High street crossed the railroad of the New York Central and Hudson River Railroad Company, in said city. A public hearing, after notice as required by the statute, was given by the Board in the city of Albany, on Thursday, November 10, 1898. It appeared at the hearing that High street was not lawfully constructed across the railroad. It was agreed that a conference should take place between the railroad company and the city officials as to some method of doing away with the

danger at the crossing, and some steps were taken in this direction. The city, however, has now made application to this Board, under section 61 of the Railroad Law, for a determination of the manner in which High street shall cross the railroad at the point in question. This application is pending.

LXXXII.

IN THE MATTER OF THE PETITION OF JAMES P. KEATING, COMMISSIONER OF HIGHWAYS OF THE CITY OF NEW YORK, UNDER SECTION 61 OF THE RAILROAD LAW.

August 16, 1899.

This Board, on September 16, 1898, received a letter from James P. Keating, commissioner of highways of the city of New York, making application, under section 61 of the Railroad Law, "for authority to establish crossings" over certain railroads in the Thirty-first and Thirty-second wards of the borough of Brooklyn. It did not appear that the provisions of section 61 of the Railroad Law had been complied with in this matter. The commissioner of highways was informed of the provisions of section 61, and nothing further having been heard from him, the matter was closed.

LXXXIII.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF NEWSTEAD, ERIE COUNTY, AND THE PRESIDENT AND TRUSTEES OF THE VILLAGE OF AKRON, ERIE COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO BUELL STREET.

August 16, 1899.

These petitions, by the town board of the town of Newstead, Erie county, and the president and trustees of the village of Akron, Erie county, were filed with the Board, the first on December 21, 1898, and the second on May 18, 1899. They allege that public safety requires an alteration in the manner in which Buell street, partly in said town and partly in said village, crosses the New York Central and Hudson River Railroad, and

propose that said Buell street be carried over the railroad by means of a bridge. The petitions are signed and verified by the proper town and village officials. A public hearing, after notice as required by the statute, was given by the Board in the city of Albany, on Wednesday, June 14, 1899. James E. Paxon appeared for the applicant; Ira A. Place and W. J. Wilgus for the New York Central and Hudson River Railroad Company. A survey and plan for the proposed bridge was made by an engineer of this Board. At the hearing some changes were suggested in the plan, which were agreed to.

The Board is of the opinion that the crossing should be changed from grade and the street carried over the railroad. The Board, therefore, determines that public safety requires that the crossing at grade of the New York Central and Hudson River Railroad by Buell street, partly in the town of Newstead and partly in the village of Akron, shall be abolished, and that said Buell street shall be carried over said railroad by means of a substantial wooden bridge, with bents resting on masonry piers. The existing crossing shall not be closed until the new overhead crossing is completed, or, if it shall appear that it must be closed to permit the construction of the bridge, a temporary crossing at grade shall be provided.

LXXXIV.

IN THE MATTER OF THE PETITION OF THE PRESIDENT AND TRUSTEES
OF THE VILLAGE OF CHAUMONT, IN THE COUNTY OF JEFFERSON,
UNDER SECTION 62 OF THE RAILROAD LAW.

August 23, 1899.

This petition, under section 62 of the Railroad Law, was filed with this Board by the president and trustees of the village of Chaumont, Jefferson county, on October 28, 1898. It alleged that public safety required an alteration in the manner in which Phelps street in said village crossed the Rome, Watertown and Ogdensburg division of the New York Central and Hudson River Railroad, it being proposed to divert the street from the point of crossing as then existing, by the construction of a new piece of highway, said new piece of highway to be carried underneath the railroad. A survey and plan for the proposed improvement were made by an engineer of this Board. The village not proceeding further, the matter was closed.

LXXXV.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF SCHAGHTICOKE, RENSSELAER COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE EAST OR MAIN CROSSING OF THE FITCHBURG RAILROAD AT MELROSE, IN SAID TOWN.

August 24, 1899.

This petition by the town board of the town of Schaghticoke, Rensselaer county, under section 62 of the Railroad Law, was filed with this Board on February 25, 1898. It alleges that public safety requires an alteration in the manner in which the east or main highway, at Melrose, in said town, crosses the Fitchburg Railroad, and proposes that the highway be carried under the railroad. At the time the petition was received provision had not been made for the payment by the State of its proportion of expense, under the Grade Crossing Law, and a hearing was not given on the petition until September 14, 1898, on which date a hearing was given at the office of the Board in Albany. Subsequently, other hearings in the matter were given on October 4, 1898, and August 5, 1899. James Evans, E. E. Pinkham, Job Doty and F. E. McDuffy appeared for the town board; T. F. Hamilton appeared for the Fitchburg Railroad Company. The company proposed that if any work under the Grade Crossing Law was to be done at the point in question, that two other highways should be closed and the travel diverted to a proposed undercrossing. To this proposition the town board objected, and this Board does not pass thereon. A member of the Board and its engineer visited the locality.

After hearing the parties in interest, and from its inspection of the crossing, the Board is of the opinion that the grade crossing should be abolished and the highway carried under the railroad. The Board, therefore, determines that public safety requires that the crossing at grade of the Fitchburg Railroad by the east or main highway at Melrose, in the town of Schaghticoke, Rensselaer county, shall be abolished, and that said east or main highway shall be carried beneath the railroad, as at present existing, in the present line of the highway.

In this matter an appeal has been taken by the company, under the statute, and the notice of appeal has been, by this Board, turned over to the Attorney-General.

LXXXVI.

IN THE MATTER OF THE APPLICATION OF THE ERIE RAILROAD COMPANY, UNDER SECTION 36 OF THE RAILROAD LAW.

August 24, 1899.

This application, under section 36 of the Railroad Law, by the Erie Railroad Company, was filed with this Board on August 19, 1899. It asks the Board to approve an interlocking switch and signal apparatus which is in operation at a point where the applicant's railroad crosses the Delaware, Lackawanna and Western Railroad, in Owego, and that the full stop and crossing on signal at said crossing may be discontinued. The application is accompanied by a plan showing in detail the interlocking apparatus. The Delaware, Lackawanna and Western Railroad Company was notified of the application.

It appearing to the Board that the interlocking switch and signal apparatus in use at this crossing is one that may be approved, the application is hereby granted.

LXXXVII.**IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE CLOSING AND DISCONTINUANCE OF DAVIS' CROSSING OF ITS RAILROAD, IN THE TOWN OF BROOKHAVEN, SUFFOLK COUNTY.**

August 24, 1899.

This petition, by the Long Island Railroad Company, under section 62 of the Railroad Law, was filed with this Board on January 26, 1899. It petitioned the Board to determine that a grade crossing of its railroad, known as Davis' crossing, in the town of Brookhaven, Suffolk county, about 1160 feet west of the Setauket station on said railroad, should be closed and discontinued, the travel thereon to be diverted to other highways and crossings in the vicinity. It subsequently appeared that the crossing in question was not a regularly laid out highway crossing, and the company withdrew its petition.

LXXXVIII.

IN THE MATTER OF THE APPLICATION OF THE SCHENECTADY RAILWAY COMPANY, UNDER SECTION 68 OF THE RAILROAD LAW, FOR A DETERMINATION OF THE MANNER IN WHICH ITS RAILROAD SHALL CROSS A SIDING OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY LEADING INTO THE WESTINGHOUSE AGRICULTURAL WORKS, ON ROTTERDAM STREET, IN THE CITY OF SCHENECTADY.

August 24, 1899.

This application was filed with the Board on August 24, 1899. The petition asks the Board to determine that the petitioner's railroad may cross at grade a siding owned by the New York Central and Hudson River Railroad Company, leading into the Westinghouse Agricultural Works, on Rotterdam street, in the city of Schenectady. A public hearing was given on said application at the office of the Board, in Albany, on August 24th. Howard C. Levis appeared for the applicant; E. Van Etten and F. A. Harrington appeared for the New York Central and Hudson River Railroad Company. An agreement between the two companies for a crossing at grade has been filed with the Board.

After careful consideration of the matter and under the circumstances in this case, the Board hereby determines that the crossing may be made at grade, upon condition that the Schenectady Railway Company complies with the recommendations of this Board as to crossings of street railroads and steam railroads, contained in a circular of the Board numbered 38, a copy of which circular is transmitted to said last named company with this determination.

The company informed the Board that it had instructed its officials to comply with the terms and conditions of circular No. 38.

LXXXIX.

IN THE MATTER OF THE APPLICATION OF THE COXSACKIE AND GREENVILLE TRACTION COMPANY, UNDER SECTION 68 OF THE RAILROAD LAW, FOR A DETERMINATION OF THE MANNER IN WHICH ITS RAILROAD SHALL CROSS THE WEST SHORE RAILROAD, AT NEW STREET, IN THE VILLAGE OF COXSACKIE.

August 24, 1899.

This application was filed with this Board on August 11, 1899. The petition asks the Board to determine, under section 68 of the Railroad Law, how the railroad of the petitioner shall cross

the West Shore Railroad, at New street, in the village of Coxsackie, Greene county, it being proposed to cross underneath the West Shore Railroad. A hearing in the matter was given at the office of the Board, in Albany, on Thursday, August 24th. N. A. Calkins and George C. Spencer appeared for the petitioner; C. C. Paulding for the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad. An engineer of the Board made an inspection of the locality and a report.

The Board determines, under section 68 of the Railroad Law, that the railroad of the Coxsackie and Greenville Traction Company shall cross the West Shore Railroad, leased to the New York Central and Hudson River Railroad Company, at New street, in the village of Coxsackie, underneath said West Shore Railroad, the entire expense to be borne by the Coxsackie and Greenville Traction Company.

XC.

IN THE MATTER OF THE COMPLAINT OF THE COMMISSIONER OF HIGHWAYS OF NEW YORK CITY AGAINST THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY.

August 28, 1899.

Under date of July 15, 1899, James P. Keating, Commissioner of Highways of New York city, complained to this Board as to a grade crossing of the New York, New Haven and Hartford Railroad, by Main street, Baychester, borough of the Bronx. The complaint alleged, particularly, that "when the Boston and Washington express passed the crossing at 3.45 p. m. on the 7th instant there was no watchman or flagman on duty at that point and the gates were standing open." A copy of the complaint was sent to the company, which answered stating that the crossing in question is a private crossing, with swinging gates in the fence, which should be closed by those using the crossing. A copy of the answer was sent to the complainant, who replied alleging that the crossing in question is a public highway, and that railroad crossing gates, of the usual design, should be erected. The Board called the attention of complainant to section 33 of the Railroad Law, which empowers local authorities to apply to the Supreme Court or county court for an order that a flagman be stationed or that gates be erected at highway crossings of steam railroads, and the case was closed.

XCI.

IN THE MATTER OF QUESTION SUBMITTED TO THIS BOARD BY THE
ULSTER AND DELAWARE RAILROAD COMPANY.

September 5, 1899.

Under date of August 24, 1899, the Ulster and Delaware Railroad Company addressed to this Board the following letter:

ULSTER AND DELAWARE RAILROAD COMPANY.

RONDOUT, N. Y., August 24, 1899.

To the Honorable the Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—The Ulster and Delaware Railroad Company respectfully submits the following question:

The Delaware and Otsego Railroad Company was authorized under charter of May 5, 1887, to construct a line of railroad from Hobart, in the county of Delaware, to Oneonta, in the county of Otsego, with a branch from Bloomville to Delhi.

On May 20, 1891, the line was completed and opened for operation from Hobart to Bloomville, a distance of about nine miles, and the grading completed, ready for track, to the Otsego county line, a distance of about fifteen miles from Bloomville.

In the meantime, Thomas Cornell, president and chief stockholder of the Delaware and Otsego Railroad Company, died, and all work was suspended on the line west of Bloomville.

After his death his estate went into the hands of a trustee, who administered the affairs of the company, and so continued until about 1896, when the present management of the Ulster and Delaware Railroad acquired control. In the meantime, the Delaware and Otsego Railroad Company had been leased to the Ulster and Delaware Railroad Company.

As soon as practicable the completion of the line was undertaken, and the following question arises from the situation—whether such portion as was completely graded prior to the time the law known as the "Grade Crossing Act" was in effect, is subject to the provisions of said law.

Respectfully,

E. COYKENDALL,

General Superintendent.

The Board asked for the opinion of the Attorney-General on this question, and received the following opinion from him:

STATE OF NEW YORK.

ATTORNEY-GENERAL'S OFFICE,

ALBANY, September 2, 1899.

JOHN S. KENYON, Secretary of the Railroad Commission, Albany, N. Y.:

DEAR SIR.—I beg to acknowledge receipt of your letter of the 25th ult., inclosing a communication from the General Superintendent of the Ulster and Delaware Railroad Company, who states that the Delaware and Otsego Railroad Company under its charter completed part of its road on or prior to May 20, 1891, and another portion thereof was graded and ready for the track for a distance of about fifteen miles; that thereafter and before laying the track, the work was suspended upon that portion which was graded, on which no track had been laid; that about the year 1896, the Ulster and Delaware Railroad Company acquired control of this line, which in the meantime had been leased to the Ulster and Delaware Company; that as soon as practicable the completion of the line was undertaken; and the question you now submit is, whether such portion as was completely graded prior to the time the law known as the

"Grade Crossing Act," went into effect, is subject to the provisions of said law.

The Grade Crossing Law is contained in chapter 754 of the Laws of 1897, and so far as pertains to the question in controversy, provides that "all steam surface railroads hereafter built, except additional switches, and sidings, must be so constructed as to avoid all public crossings at grades, wherever practical so to do."

So far as this law affects the question, it seems to me that when the grade has been completed, the railroad may be considered built. It is the grading of the road that is affected by this law; and wherever the grade has been made and all the work completed upon the road-bed necessary prior to the placing of the ties and rails; and the road-bed being in that condition at the time chapter 754 of the Laws of 1897 became a law, I am of the opinion that it is not affected by this law.

Yours truly,

J. O. DAVIES,

Attorney-General.

The Board felt bound by this opinion, and so notified the company.

XCII.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF OLEAN, CATTARAUGUS COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO A CROSSING OF THE WESTERN NEW YORK AND PENNSYLVANIA RAILWAY BY A HIGHWAY KNOWN AS HASTING'S CROSS ROAD IN SAID TOWN.

September 5, 1899.

This application having been duly filed with this Board by the town board of the town of Olean, Cattaraugus county, and the steps required under the statute having been taken by this Board, the applicant and the railroad company, it is hereby determined that the highway known as Hasting's Cross Road, in the town of Olean, Cattaraugus county, shall be carried over the railway of the Western New York and Pennsylvania Railway Company by means of a bridge, abutments and approaches as described on two blue print plans filed with this Board, one endorsed: "Board of R. R. Commrs. State of N. Y. Albany, N. Y., May 2d, 1899. Checked and approved. A. H. Sutermeister, Supt. G. C. Bureau," and the other endorsed: "Board of R. R. Commrs. State of New York. Albany, N. Y., July 26, 1899. Checked and approved. A. H. Sutermeister, Supt. G. C. Bureau."

The work involved in the above determination has been proceeded with diligently, and at the time of writing this report the superstructure has been completed and it is expected that the bridge will be erected within a short time.

XCIII.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF CARROLLTON, CATTARAUGUS COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW, AS TO THE ABOLISHMENT OF A GRADE CROSSING OF THE BUFFALO, ROCHESTER AND PITTSBURGH RAILWAY BY THE STATE ROAD, NEAR CARROLLTON DEPOT.

September 21, 1899.

This petition, under section 62 of the Railroad Law, by the town board of the town of Carrollton, Cattaraugus county, was filed with this Board on April 4, 1899. It alleged that public safety required an alteration in the manner in which a highway known as the State road crossed the Buffalo, Rochester and Pittsburgh Railway, near the Carrollton depot on said railway, and asked the Board to determine that said highway should be carried under the railroad. After considerable correspondence, and after several dates for hearing had been named, a letter was received from the town withdrawing the petition. Upon inquiry it was learned that another highway in the vicinity had been placed in a satisfactory condition, thus doing away with the town's desire for the carrying of the State road under the railroad.

XCIV.

IN THE MATTER OF THE PETITION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF BINGHAMTON, UNDER SECTION 62 OF THE RAILROAD LAW.

September 25, 1899.

This petition, under section 62 of the Railroad Law, by the mayor and common council of the city of Binghamton, was filed with this Board on June 12, 1899. It alleges that public safety requires an alteration in the manner in which a street known as Chenango street, in said city, crosses the Erie Railroad and the New York, Lackawanna and Western Railroad, leased to and operated by the Delaware, Lackawanna and Western Railroad Company, and petitions the Board to determine that public safety requires an alteration in the manner of crossing so that the street shall be carried over said railroads by means of a bridge. The petition is signed and verified by the mayor and a majority of the members of the common council. It also refers to grade crossings of Bevier street and railroads, in which matter a deter-

mination was made by this Board on June 28, 1899. A public hearing, after notice as required by the statute, was given by the Board in the city of Binghamton, on June 28, 1899. Jerome DeWitt, mayor, and Frank Stewart, corporation counsel, appeared for the city; Edward F. Jones appeared for the Board of Trade of Binghamton in favor of the petition; H. C. Walker and James T. Rogers appeared for taxpayers of the eleventh and thirteenth wards in favor of the petition; Thomas J. Keenan appeared for Kennedy & Tierney; H. C. Perkins for W. T. Spaulding, a property owner; Carver & Deyo for Theodosia D. Jessup, Mary E. Lockwood, and James W. Maniere as trustee, etc., for Anna M. Leveritt, property owners; W. J. Welch appeared for the Binghamton Trust Company as guardian for the infant William L. March; C. F. O'Brien appeared for Ehresman & Schwab, and Lawrence McDonald, property owners; Robert E. Crittenden, property owner, appeared for himself and by R. B. Richards, his attorney; D. S. Richards appeared for the Delaware, Lackawanna and Western Railroad Company (lessee of the New York, Lackawanna and Western Railroad); George F. Brownell and W. D. Painter appeared for the Erie Railroad Company; C. D. Hammond appeared for the Delaware and Hudson Company. Subsequently hearings in the matter were held in the city of Binghamton on July 28th and September 25th. Several conferences were held between an engineer of this Board, the engineer of the city and the engineers of the Delaware, Lackawanna and Western and the Erie Railroad Companies as to the plan for the proposed overhead structure. The Board inspected the crossing.

The evidence in this case shows the crossing to be an extremely dangerous one, and the Board is of the opinion that public safety requires that it should be changed from grade. The Board, therefore, determines that the crossing at grade of Chenango street, in the city of Binghamton, by the New York, Lackawanna and Western Railroad (leased to and operated by the Delaware, Lackawanna and Western Railroad Company) and the Erie Railroad, shall be changed from grade, and that the street shall be carried over the said railroads by means of a bridge, substantially as shown by a blue print plan attached hereto, entitled "Plan showing proposed elimination of grade crossing at Chenango St., Binghamton, Scales 1—40. Board of R. R. Commissioners, Oct. 4th, 1899. A. H. Sutermeister, Supt. Grade Cross. Bureau."

It is not found practicable to print the plan referred to, here. At the time of writing this report, the work had not been commenced on the improvement involved in the above determination.

XCV.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF BETHLEHEM, ALBANY COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

October 4, 1899.

This petition by the town board of the town of Bethlehem, Albany county, under section 62 of the Railroad Law, was filed with this Board on September 1, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as the road leading from the Bethlehem church to the River road, in said town, crosses the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company), and petitions the Board to determine that an alteration shall be made in the location of the highway so that it shall cross the West Shore Railroad at grade about 125 feet southwesterly from the present point of crossing. The petition is signed and verified by a majority of the members of the town board. A public hearing, after notice as required by the statute, was given by the Board, in the city of Albany, on Wednesday, October 4, 1899. John M. Bailey appeared for the town board; Spencer Merchant, a property owner, appeared in opposition to the proposed change. The petitioner states that it will pay the entire expense of the proposed change.

The Board deems that public safety requires an alteration in the location of said highway and crossing. It, therefore, determines that the highway known as the road leading from the Bethlehem church to the River road, in the town of Bethlehem, Albany county, shall be so altered in location that it shall not cross the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company) at the present point of crossing, but may cross said railroad at grade at a point about 125 feet southwesterly from the present point of crossing, on condition that no part of the expense of the proposed change shall be borne by the State or the railroad company, and that the present crossing shall be closed and discontinued when the relocation of the highway and new crossing, as aforesaid, is accomplished.

XCVI.

IN THE MATTER OF THE PETITION OF THE TOWN OF ALTAMONT, IN THE COUNTY OF FRANKLIN, UNDER SECTION 61 OF THE RAILROAD LAW, AS TO THE LAYING OUT OF A NEW HIGHWAY ACROSS THE NEW YORK AND OTTAWA RAILROAD.

October 4, 1899.

This petition by the town of Altamont, Franklin county, under section 61 of the Railroad Law, was filed with this Board on November 30, 1898. It alleges that the town has laid out a new highway, being an extension of Pine street, across the New York and Ottawa Railroad, and asks the Board to determine the manner of crossing. Attached to the petition is the written consent of the New York and Ottawa Railroad Company, by its president, Charles B. Hibbard, that the new crossing may be made at grade. A public hearing, after notice as required by the statute, was given in the city of Albany, on October 4, 1899. Martin E. McClary appeared for the applicant.

The town desires that the crossing may be made at grade. The circumstances in this case are such that the Board believes it is justified in determining that the crossing may be made at grade. It, therefore, determines, under section 61 of the Railroad Law, that a new highway, in the town of Altamont, Franklin county, being an extension of Pine street, may cross at grade the New York and Ottawa Railroad.

XCVII.

IN THE MATTER OF THE PETITION OF THE CITY OF GENEVA, UNDER SECTION 61 OF THE RAILROAD LAW, AS TO THE EXTENSION OF AVENUE B ACROSS THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.

October 4, 1899.

This petition by the city of Geneva, under section 61 of the Railroad Law, was filed with this Board on February 3, 1899. It alleges that the steps required by section 61 of the Railroad Law have been taken for the establishment of a crossing of the New York Central and Hudson River Railroad by an extension of a street known as Avenue B, and asks the Board to determine whether said street shall pass over or under said railroad or at grade. A public hearing, after notice as required by the statute, was given in the city of Geneva, on June 8, 1899. John G. Farwell appeared for the city; A. H. Harris for the New York Cen-

tral and Hudson River Railroad Company, in opposition. An adjourned hearing was held at the city of Albany, on Wednesday, October 4, 1899. John G. Farwell appeared for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition.

It appearing at the hearing on October 4th that the proceedings of the local authorities laying out the street across the railroad are defective, inasmuch as the description of the proposed point of crossing does not appear to be sufficiently definite, the Board is of the opinion that it should not proceed to determine the manner of crossing, under section 61 of the Railroad Law. The petition is, therefore, dismissed.

XCVIII.

IN THE MATTER OF THE PETITION OF THE CITY OF GENEVA, UNDER SECTION 61 OF THE RAILROAD LAW, AS TO THE EXTENSION OF AVENUE E ACROSS THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.

October 4, 1899.

This petition by the city of Geneva, under section 61 of the Railroad Law, was filed with this Board on February 3, 1899. It alleges that the steps required by section 61 of the Railroad Law have been taken for the establishment of a crossing of the new York Central and Hudson River Railroad by an extension of a street known as Avenue E, and asks the Board to determine whether said street shall pass over or under said railroad or at grade. A public hearing, after notice as required by the statute, was given in the city of Geneva on June 8, 1899. John G. Farwell appeared for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition; L. G. Hoskins for property owners. An adjourned hearing was held at the city of Albany on Wednesday, October 4, 1899. John G. Farwell appeared for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition.

It appearing at the hearing on October 4th that the proceedings of the local authorities laying out the street across the railroad, are defective, inasmuch as the description of the proposed point of crossing does not appear to be sufficiently definite, the Board is of the opinion that it should not proceed to determine the manner of crossing, under section 61 of the Railroad Law. The petition is, therefore, dismissed.

XCIX.

IN THE MATTER OF THE PETITION OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF COHOES, UNDER SECTION 62 OF THE RAILROAD LAW.

October 5, 1899.

This petition, under section 62 of the Railroad Law, by the mayor and common council of the city of Cohoes, was filed with this Board on October 14, 1898. It alleges that public safety requires an alteration in the manner in which a street known as Ontario street crosses the railroad operated by the Delaware and Hudson Company at a point on Van Schaick Island, in said city, near the bridge over the Hudson river, and petitions the Board to determine that public safety requires an alteration in the manner of such crossing, so that the street shall be carried over the railroad above grade. The petition is signed and verified by the mayor and a majority of the members of the common council of the city. A public hearing, after notice as required by the statute, was given by the Board at its office in Albany, on Thursday, November 10, 1898. Henry A. Strong, city attorney, appeared for the applicant; L. E. Carr for the Delaware and Hudson Company; C. H. Smith for the Troy City Railway Company; William B. LeRoy for the Globe Knitting Mills; E. L. Rowe for the Rensselaer Manufacturing Company; Jonas Ravenscroft as a property owner; Abby Canniff for the estate of Bernard Canniff; L. F. McDermott as a property owner. A conference was held between persons interested, and the engineer of the Board and a representative of the railroad company, as to the plan of the proposed structure, at the city of Cohoes, on November 21, 1898. An adjourned hearing was held before the Board on August 4, 1899. The matter was held open pending the preparation of a plan for the proposed bridge.

From the evidence in this case, it seems to the Board that public safety requires that this crossing should be changed from grade. The Board, therefore, determines that the crossing at grade of the railroad operated by the Delaware and Hudson Company, by Ontario street, at a point in the city of Cohoes, on Van Schaick Island, near the bridge over the Hudson river, shall be changed from grade, and that the street shall be carried over the railroad by means of a bridge, substantially as shown by a blue print attached hereto, entitled "Board of R. R. Commissioners. Proposed Over-Crossing at Ontario St., Cohoes, N. Y. (Partly traced from drawing furnished by D. & H. R. R. Co.) Scale of Map 1"-30'. Scale of Profile Hor. 1"-30'. Vert. 1"-20'."

It is not found practicable to print the plan referred to in the above determination, here. At the time of writing this report the work had not been commenced.

C.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF SOUTHAMPTON, SUFFOLK COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

October 13, 1899.

This petition, under section 62 of the Railroad Law, by the town board of the town of Southampton, in the county of Suffolk, was filed with this Board on July 19, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as Butter Lane crosses the railroad of the Long Island Railroad Company, at Bridgehampton in said town, and petitions the Board to determine that public safety requires an alteration in the manner of crossing, so that the highway shall be carried underneath the railroad. The petition is signed and verified by a majority of the members of the town board. A public hearing, after notice as required by the statute, was given by the Board at Bridgehampton, on October 13th. Henry H. Chatfield appeared for the petitioner and for Silas R. Carwith, property owner; E. Erastus Halsey, highway commissioner, David T. Dickinson, Charles A. Pierson, Frank L. Bishop, James H. Rogers and Silas R. Carwith, property owners, also appeared. A. A. Gardner appeared for the Long Island Railroad Company. There was no opposition to the proposed change.

The evidence in this case shows the crossing to be a dangerous one, and the Board is of the opinion that public safety requires that it should be changed from grade. The Board, therefore, determines that the crossing at grade of a highway known as Butter Lane and the Long Island Railroad, at Bridgehampton, in the town of Southampton, in the county of Suffolk, shall be changed from grade, and that the highway shall be carried underneath the railroad, the undercrossing to be 22 feet in width in the clear.

Plans and specifications for doing the work involved in the above determination have been submitted to the Board.

CI.

IN THE MATTER OF THE PETITION OF THE LONG ISLAND RAILROAD COMPANY, UNDER SECTION 62 OF THE RAILROAD LAW.

October 13, 1899.

This petition, under section 62 of the Railroad Law, by the Long Island Railroad Company, was filed with this Board on October 3, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as the North Sea road crosses the petitioner's railroad, in the village of Southampton, Suffolk county, and petitions the Board to determine that public safety requires an alteration in the manner of crossing, so that said highway shall be carried underneath the railroad. The petition is signed and verified by William J. Kelly, attorney for the petitioner. A public hearing, after notice as required by the statute, was given by the Board in the village of Southampton, on October 13th. A. A. Gardner appeared for the petitioner. Albert J. Post, president of the village, H. M. Howell, attorney for the village, Walter A. Jagger, a trustee of the village, W. F. Howell, for Mrs. Annie E. Saylor, S. Ellison and U. R. Havens also appeared.

The evidence in this case shows the crossing to be a dangerous one, and the Board is of the opinion that public safety requires that it should be changed from grade. The Board, therefore, determines that the crossing at grade of the North Sea road highway and the Long Island Railroad, in the village of Southampton, Suffolk county, shall be changed from grade, and that said highway shall be carried underneath the railroad.

Plans and specifications for doing the work involved in the above determination have not yet been submitted to the Board.

CII.

IN THE MATTER OF THE APPLICATION OF THE ELMIRA AND SENECA LAKE RAILWAY COMPANY, UNDER SECTION 68 OF THE RAILROAD LAW, FOR A DETERMINATION OF THE MANNER IN WHICH ITS RAILWAY SHALL CROSS THE ELMIRA AND LAKE ONTARIO RAILROAD, LEASED TO AND OPERATED BY THE NORTHERN CENTRAL RAILWAY COMPANY, IN THE VILLAGE OF MONTAUR FALLS.

October 16, 1899.

This application was filed with the Board on August 4, 1899. The petition asks the Board to determine that the petitioner's railroad may cross at grade the single track railroad of the

Elmira and Lake Ontario Railroad Company, leased to and operated by the Northern Central Railway Company, in Main street in the village of Montour Falls. Attached to the petition is an agreement between the companies for a crossing at grade, and providing for certain safeguards. Also attached to the petition is a blue print of a derailing or safety switch to be installed in the street railroad. Also attached to the petition is a request from the board of trustees of the village of Montour Falls that the proposed crossing may be made at grade, according to the provisions of the agreement between the companies. A public hearing was given on said application, after notice by advertisement, and after notice to the Northern Central Railway Company, at the office of the Board in Albany, on October 16, 1899. Boyd McDowell and John E. Mulford appeared for the applicant; no one appeared in opposition. An inspection of the proposed crossing was made by the electrical expert of this Board, who made a report thereon.

After careful consideration of the matter and under the circumstances in this case, the Board hereby determines, under section 68 of the Railroad Law, that the railway of the Elmira and Seneca Lake Railway Company may cross at grade the railroad of the Elmira and Lake Ontario Railroad Company, leased to and operated by the Northern Central Railway Company, in Main street in the village of Montour Falls, upon condition that the Elmira and Seneca Lake Railway Company complies with the provisions of the agreement above referred to between the companies as to safety devices and precautions to be taken in operating its cars over the crossing, and upon the further condition that if, upon inspection by this Board of the safety apparatus after its installation, the Board determines that home and distant signals should be located on the steam railroad, interlocked with the safety switch, such home and distant signals shall be provided by the street railroad company. The Board also determines, under section 68 of the Railroad Law, that the expense of the crossing and safety devices shall be borne as provided in the agreement between the companies hereinbefore referred to.

CIII.

IN THE MATTER OF THE PETITION OF THE PRESIDENT AND TRUSTEES OF THE VILLAGE OF ATTICA, WYOMING COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

October 16, 1899.

This petition, under section 62 of the Railroad Law, by the president and trustees of the village of Attica, in the county of

Wyoming, was filed with this Board on August 18, 1899. It alleges that public safety requires an alteration in the manner in which High and West Main streets in said village cross the Erie Railroad, and petitions the Board to determine that public safety requires an alteration in the manner of such crossing. A public hearing, after notice as required by the statute, was given in the village of Attica, on Thursday, September 21, 1899. William E. Hopkins, Esq., village attorney, and Hugh Miller, a member of the Board of trustees of the village, appeared for the village; G. M. Sicard and C. A. Brunn appeared for the Erie Railroad Company. The Board inspected the crossings, which are near together.

The evidence in this case shows the crossings to be extremely dangerous, and the Board is of the opinion that public safety requires that an undercrossing of the railroad should be made at High street. The Board, therefore, determines that the crossing at grade of High street and the Erie Railroad, in the village of Attica, shall be changed from grade and that said High street shall be carried under said railroad. The Board also determines that the crossing at West Main street shall be closed and discontinued, and the travel diverted to the proposed undercrossing at High street, by the construction of a connecting piece of highway, the West Main street crossing not to be discontinued until the undercrossing is completed and ready for use at High street.

CIV.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF SMITHTOWN, SUFFOLK COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

October 31, 1899.

This petition, under section 62 of the Railroad Law, by the town board of the town of Smithtown, in the county of Suffolk, was filed with this Board on August 3, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as the road leading from Smithtown to Sank Meadow crosses the railroad of the Long Island Railroad Company, near the Kings Park station of said company, and petitions the Board to determine that the highway be changed in location so that it shall not cross the railroad as it now does at two points east of said station. The petition is signed and verified by a majority of the members of the town board. A public hearing, after notice as required by the statute, was given by the Board

at the Kings Park station, on October 13th. E. H. L. Smith, supervisor, and John F. Kelly appeared for the town board. Theodore W. Smith, John Kelly, H. C. Smith's Sons, Mr. Carlson and Eugene Keane, property owners, also appeared. A. A. Gardner appeared for the Long Island Railroad Company.

The evidence in this case shows the two crossings in question to be dangerous, and the Board is of the opinion that public safety requires that they should be closed and discontinued. The Board, therefore, determines that the highway known as the road leading from Smithtown to Sunk Meadow, in the town of Smithtown, Suffolk county, be so changed in location that it shall not cross the Long Island Railroad at two points east of and near the Kings Park station of said railroad, and that the crossings at said two points shall be closed and discontinued, the travel on said highway and crossings to be diverted to a connecting piece of highway to be constructed, provided that the said two crossings shall not be closed and discontinued until the new piece of highway shall be constructed and the work approved by this Board.

CV.

IN THE MATTER OF THE PETITION OF THE TOWN BOARD OF THE TOWN OF ISLIP, SUFFOLK COUNTY, UNDER SECTION 62 OF THE RAILROAD LAW.

October 31, 1899.

This petition, under section 62 of the Railroad Law, by the town board of the town of Islip, Suffolk county, was filed with this Board on September 20, 1899. It alleges that public safety requires an alteration in the manner in which a highway known as Fifth street, in Brentwood, in said town, crosses the railroad of the Long Island Railroad Company. The petition is signed and verified by a majority of the members of the town board. A public hearing, after notice as required by the statute, was given by the Board at the Long Island Railroad station at Brentwood, on October 13, 1899. Frank Parker, supervisor, and Frank E. Blacker, justice of the peace, appeared for the town board; Anthony H. Creagh and Charles A. Codman, property owners, also appeared; A. C. Clark appeared for Mrs. Etta A. Kellane, a property owner; E. F. Howell appeared for himself as a property owner, for Marie E. Cumming as a property owner, and for the Brentwood Land Company; A. A. Gardner appeared for the railroad company. The property owners appearing all opposed the abolishment of the grade crossing, and suggested that an electric warning bell be erected at the crossing, and that the

trees and brush on the land adjoining the crossing, which obstruct the view of the railroad, be cut away.

After consideration, it appears to the Board that if the suggestions of the property owners are carried out, it will do much to lessen the danger at the crossing. The Board, therefore, makes no determination at this time, that any alterations or changes shall be made at the crossing under section 62 of the Railroad Law, but recommends to the Long Island Railroad Company that it erect and maintain an electrical warning bell at this crossing, and that it cause the trees and brush, which obstruct the view of the railroad at the crossing, to be cut away and removed.

CVI.

IN THE MATTER OF THE PETITION OF THE CITY OF JOHNSTOWN,
UNDER SECTION 62 OF THE RAILROAD LAW.

November 17, 1899.

This petition, under section 63 of the Railroad Law, by the mayor and common council of the city of Johnstown, was filed with this Board on June 7, 1899. It alleges that public safety requires an alteration in the manner in which West Main street, in said city, crosses the railroad of the Fonda, Johnstown and Gloversville Railroad Company, and petitions the Board to determine that public safety requires an alteration in the manner of such crossing. The petition asks that the street be carried over the railroad by means of a bridge. A public hearing, after notice as required by the statute, was given at the office of the Board in Albany on August 4, 1899. Borden D. Smith appeared for the applicants; Philip Keck for property owners and citizens in favor of the application. A. D. L. Baker appeared for the Fonda, Johnstown and Gloversville Railroad Company, in opposition. Subsequently an adjourned hearing in the matter was held at the office of the Board in Albany on October 4th. Borden D. Smith appeared for the applicants; Baker & Burton appeared for the Fonda, Johnstown and Gloversville Railroad Company, in opposition. The Board inspected the crossing on October 24th.

From the evidence in this case, and from its inspection of the crossing, the Board does not believe that it would be justified, at this time, in determining that the crossing shall be changed from grade. The work would call for a large expenditure of money, which does not seem to be warranted, from the standpoint of public safety, by the conditions surrounding the crossing. The approach to the crossing from the east could be materially improved

if the local authorities would reduce the grade of West Main street on that side. The view of the railroad to the north, from the east, would be materially improved by the cutting away of a portion of the embankment on the old schoolhouse property which abuts on the railroad.

The determination of the Board in this matter, therefore, is that no alterations or changes, under section 62 of the Railroad Law, shall be made at the crossing in question at present.

CVII.

IN THE MATTER OF THE APPLICATION OF THE GREENBUSH AND NASSAU ELECTRIC RAILWAY, UNDER SECTION 68 OF THE RAILROAD LAW, FOR A DETERMINATION OF THE MANNER IN WHICH ITS RAILROAD SHALL CROSS THE BOSTON AND ALBANY RAILROAD.

November 25, 1899.

This application, under section 68 of the Railroad Law, was filed with this Board on July 11, 1899. It asks the Board to determine the manner in which the applicant's railroad shall cross the Boston and Albany Railroad at a point in Niverville, Columbia county, and at a point near or in the city of Rensselaer, the applicant in its petition stating that it is proposed to cross underneath the steam railroad near Niverville, and above the grade of the steam railroad near or in Rensselaer. A public hearing, after due notice, was given by this Board in the city of New York on July 24th. C. A. Collin appeared for the applicant. The Boston and Albany Railroad Company appeared by letter and asked for an adjournment. An adjournment was taken. On November 15th this Board received from the applicant copies of agreements between it and the Boston and Albany Railroad Company as to the proposed crossings. The agreements provide for an undercrossing in Niverville, and for an overcrossing in or near Rensselaer, at points, as shown by maps attached to the agreements.

The Board hereby determines, under section 68 of the Railroad Law, that the crossing by the railroad of the Greenbush and Nassau Electric Railway, or its successor company, of the Boston and Albany Railroad, at a point in the village of Niverville, Columbia county, shall be underneath said Boston and Albany Railroad, as shown on a map attached to an agreement between said companies, a copy of which agreement is on file in this office, at the sole expense of said Greenbush and Nassau Electric Railway, or its successor company. The Board also hereby determines, under section 68 of the Railroad Law, that the crossing by the

railroad of the Greenbush and Nassau Electric Railway, or its successor company, of the Boston and Albany Railroad at a point near or in the city of Rensselaer, shall be above the grade of said Boston and Albany Railroad, as shown by a map attached to an agreement between the said companies, a copy of which is on file in this office, at the sole expense of said Greenbush and Nassau Electric Railway, or its successor company.

Court of Appeals Decision as to Section 61 of the Railroad Law.

THE PEOPLE OF THE STATE OF NEW YORK EX REL. THE CITY OF
NIAGARA FALLS, APPELLANT, *v.* THE NEW YORK CENTRAL AND
HUDSON RIVER RAILROAD COMPANY, RESPONDENT.

APPEAL from an order of the Appellate Division of the Supreme Court in the fourth judicial department, made June 18, 1898, affirming an order of Special Term denying a motion for a peremptory writ of mandamus to compel the defendant to carry Tenth street, in the city of Niagara Falls, across the tracks of its railway.

The facts, so far as material, are stated in the opinion.

PARKER, Ch. J. We held in *People ex rel. City of Buffalo v. New York Central & Hudson R. R. Co.* (156 N. Y. 570) that the effect of the provisions of section 31 of the Statutory Construction Law (Laws of 1892, chap. 677) is to preserve a proceeding pending in a court to compel a railroad to take a street across its tracks after the preliminary steps have been taken as provided by chapter 62 of the Laws of 1853, notwithstanding the repeal of such act by chapter 754 of the Laws of 1897. In that case the city of Buffalo had not only acquired the right to compel the railroad to take a street across its tracks, but it had also instituted proceedings by mandamus to effectuate that result before the act of 1897 went into operation, and the right to prosecute a proceeding thus commenced to final effect, notwithstanding the repeal of the statute authorizing it, is preserved by the section of the Statutory Construction Law to which we have referred.

This case presents an entirely different situation; for when the act of 1897 took effect, this relator had not instituted a proceeding by mandamus to compel defendants to carry the street over its tracks; indeed, it had not even acquired the right to institute such a proceeding. If it had attempted to commence proceedings by mandamus at any time before the day on which the act of 1897 went into operation, it would have failed, because, by the terms of the resolution of the common council, the defendant had still seven days within which to comply, or refuse to comply, with the notice given by the city.

On the seventh day of May, 1897, in pursuance of a resolution of the common council of the relator, notices were served upon this defendant and the Erie Railroad Company to take Tenth street, which was laid down upon a general map of the city, across their respective tracks. These notices were given in pursuance of the provisions of chapter 62 of the Laws of 1853 (*supra*), and later on and in conformity with other provisions of that statute the common council by resolution extended the time within which the defendant was required to do such work until the 7th day of July, 1897. Until that date, therefore, the city could not have acquired the right to compel the defendant by mandamus to take the street across its tracks, had the act of 1853 continued in force. Between the 7th days of May and July the legislature passed chapter 754 of the Laws of 1897, which act took effect on the 1st day of July, or seven days prior to the termination of the period given the defendant by the city to take the

street across the tracks. The latter act radically altered the procedure by which highways are to be carried across railroad tracks, a change of procedure made necessary by the radical change in the public policy of the State looking towards the ultimate abolition of the crossing of highways at grade by the tracks of steam railroads. It provides a complete scheme as to crossings, whether the tracks of the railroad cross streets already laid out or streets newly laid out, opened or extended across the tracks of a railroad already in existence, or the change in the grade of an existing crossing, and commits the regulation of the manner of making and constructing such crossing to the railroad commissioners, who are given authority to determine whether a given street, avenue or highway shall pass over or under a railroad, or at grade. The last section contains a repealing clause affecting all acts inconsistent with it, by which the act of 1853 was necessarily repealed.

The right of all municipalities to lay out streets across the property of a railroad remains unaffected by this legislation; but it does take away from them the right of their own motion to compel a railroad to take a street across its tracks at grade. A municipality may desire that it be so taken, to save expense to itself or for some other reason, but the power to determine whether its wish will be given effect has, since the 1st day of July, 1897, been committed to the judgment of the railroad commissioners. Many attempts have been made since the passage of that act to thwart the policy of the law-making power to avoid grade crossings; in some instances proceedings to open streets were instituted by the municipal authorities after the act of 1897 had been passed, but, of course, before it took effect. Indeed, in one instance, the notice, which the act of 1853 provided should be served upon a railroad corporation, notifying it to take a street across its railroad tracks within thirty days, was served only two days before the act of 1897 took effect. (Matter of the Village of Waverly, 35 App. Div. 38.)

It would be unfortunate if such attempts to subvert the policy of the state could have such support in the statutes as would make them effectual, but, as we read them, they have no such support. The act of 1853 was repealed by that of 1897, and, therefore, since the 1st day of July of that year the procedure provided by the latter act must be resorted to in all attempts to take a street across the tracks of a steam railroad—a procedure that requires, in the first instance, a determination by the railroad commissioners whether the street shall pass under or over the tracks of such a corporation or at grade. But where the right to institute proceedings by mandamus was acquired, and the proceedings commenced prior to the 1st day of July, 1897, to compel a railroad to take a street across its tracks, the right to prosecute that proceeding to the end in the courts is preserved by section 31 of the Statutory Construction Law.

The order should be affirmed, with costs.

All concur.

Order affirmed.

Highway Crossing Signs on Railroads.

1.

September 14, 1899.

During the past year many applications were made to this Board by various steam railroad companies of the State for approval of the forms of highway crossing signs in use and to be used at highway crossings of the railroads of the applicants. Section 33 of the Railroad Law provides for a form of highway crossing sign, this section being a part of article II of the law, of which article section 50 is also a part. Section 50 provides that "The board of railroad commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the Board, in place of any safeguard or device required by this article which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used." A hearing in the matter was given by the Board at its office in Albany, on September 14, 1899. In each case the Board required that a drawing or blue print of the sign in use or proposed to be used should be filed with it.

The Board approved the signs, as shown by sketches or blue prints on file in this office, of the following companies:

The Long Island Railroad Company.

The Prospect Park and Coney Island Railroad Company.

The New York and Rockaway Beach Railway Company.

The New York, Chicago and St. Louis Railroad Company.

The Keeseville, Ausable Chasm and Lake Champlain Railroad Company.

The Catskill Mountain Railway Company.

The New York, Ontario and Western Railway Company.

The Buffalo, Rochester and Pittsburgh Railway Company.

The Fitchburg Railroad Company.

The New York Central and Hudson River Railroad Company and the following lines leased by it, viz:

The Rome, Watertown and Ogdensburg Railroad; the New York and Putnam Railroad; the New York and Harlem Railroad; the Mohawk and Malone Railway; the Fall Brook Railway and leased lines in this State; the West Shore Railroad; and the Dunkirk, Allegheny Valley and Pittsburg Railroad.

The Terminal Railway of Buffalo.

The Ogdensburg and Lake Champlain Railway.

The Erie Railroad Company.

The New York, Susquehanna and Western Railroad Company, lessee of the Middletown, Unionville and Water Gap Railroad.

The Genesee and Wyoming Railroad Company.

The Lehigh Valley Railroad Company.

The Ulster and Delaware Railroad Company, the Stony Clove and Catskill Mountain Railroad Company, and the Kaaterskill Railroad Company.

The Bath and Hammondsport Railroad Company.

The Poughkeepsie and Eastern Railway Company.

The Buffalo and Susquehanna Railroad Company.

The diamond-shaped sign used by the Northern Central Railway was also approved.

One form of sign used by the New York and Pennsylvania Railroad Company was approved; and another form of sign used by that company was disapproved.

The form of sign used by the Buffalo, Attica and Arcade Railroad Company was disapproved, but the company was notified that the Board would approve a form as shown by a drawing forwarded to the company. The company notified the Board that it would proceed to erect signs of the form shown by said drawing.

The diamond form of sign, with nine-inch letters, used by the Pittsburg, Shawmut and Northern Railroad Company was approved; and two other forms of signs used by said company were disapproved.

The form of sign used by the Niagara Junction Railway Company was disapproved; inasmuch as the letters were not nine inches high.

The form of sign used by the Hudson Light and Power and Railway Company was approved, on condition that letters nine inches in length and of suitable width should be used. The company informed the Board that this would be done.

Applications for Change of Motive Power.

I.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK AND HARLEM RAILROAD COMPANY, AND THE METROPOLITAN STREET RAILWAY COMPANY, ITS LESSEE, FOR APPROVAL BY THE BOARD OF THE USE OF AN UNDERGROUND CURRENT OF ELECTRICITY, AS MOTIVE POWER, ON CERTAIN PORTIONS OF THE NEW YORK AND HARLEM RAILROAD.

February 6, 1899. .

Application having been made to the Board of Railroad Commissioners by the New York and Harlem Railroad Company, and the Metropolitan Street Railway Company, its lessee, on or about January 5th, 1899, for approval by the Board of the use of an underground current of electricity as motive power upon that portion of the applicants' railroad, upon the following streets and avenues in the city of New York, to wit: Upon Thirty-second and Thirty-third streets between Fourth and Lexington avenues, upon Lexington avenue between Thirty-second and Thirty-fourth streets, and upon Thirty-fourth street between Lexington avenue and Second avenue; and also upon the railroad now constructed in transverse road No. 3 between Eighth avenue and Fifth avenue, and upon Eighty-fifth street between the easterly side of Central Park and Madison avenue, and a hearing having been given on said application at the Fifth Avenue hotel, New York city, on January 17th, H. A. Robinson appearing for said application, Paul S. Williams and others in opposition as to that portion of the route on East Eighty-fifth street, and William W. Bryan, by letter, in opposition as to that portion of the route on Thirty-second street; now, after reading and filing due proof of the publication of the notice of hearing before this Board, and after reading and filing the report of the electrical expert of the Board of his inspection of the railroad in question, and after reading and filing the affidavit of Richard Keef, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which this application is made have consented to the use of an underground current of electricity as motive power, it is

Ordered, That said application be and it is hereby granted and the Board of Railroad Commissioners hereby approves, under section 100 of the Railroad Law and under chapter 597 of the Laws of 1898, of the use of an underground current of electricity as motive power on that portion of the railroad of the New York and Harlem Railroad Company, leased to the Metropolitan Street Railway Company, described above, with the following conditions, however, which are hereby made a part of this approval:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. Any and all changes of tracks, water, sewer or gas pipes, or other underground structures rendered necessary by the construction of the conduit, shall be by agreement with the official or officials of the city of New York who exercise the supervision of the construction of street railroads formerly exercised by the commissioner of public works of said city, and under their direction and supervision, at the expense of the company doing the work.

Third. If a new rail is laid it shall be such as shall be approved by the official or officials of the city of New York who exercise the supervision of the construction of street railroads formerly exercised by the commissioner of public works of said city.

Fourth. The company shall remove the snow from its tracks and not throw it on either side thereof.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

Seventh. The company shall equip its cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

Eighth. The voltage shall not be greater than six hundred volts.

II.

IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN STREET RAILWAY COMPANY AND THE BROADWAY AND SEVENTH AVENUE RAILROAD COMPANY, OF NEW YORK CITY, FOR APPROVAL OF MOTIVE POWER.

February 6, 1899.

Application having been made to the Board of Railroad Commissioners by the Metropolitan Street Railway Company, and the Broadway and Seventh Avenue Railroad Company, of New York city, on or about January 5, 1899, for approval by the Board of the use of an underground current of electricity, or electricity contained in storage batteries, or compressed air, severally or together, upon that portion of the railroad upon the following streets and avenues, to wit: From the intersection of Lexington avenue and Ninety-sixth street; thence through, upon and along East Ninety-sixth street to First avenue; thence through, upon and along First avenue to Ninety-third street; thence through, upon and along East Ninety-third street to Avenue A, and along and upon said Avenue A to a point at or near the entrance to Astoria ferry; also upon Third street and Fourth street, between West Broadway and Wooster street, and a hearing having been given on said application at the Fifth Avenue Hotel, in the city of New York, on January 17th, H. A. Robinson appearing for said application, and no one in opposition thereto; now, after reading and filing due proof of the publication of the notice of hearing before this Board, and after reading and filing the report of the electrical expert of the Board, and after reading and filing the affidavit of Richard Keef, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which this application is made have consented to the use of an underground current of electricity as motive power, it is

Ordered, That the said application be and it is hereby granted, so far as approval of the use of an underground current of electricity is concerned, and the Board of Railroad Commissioners hereby approves of the use of an underground current of electricity in the operation of the railroad on the streets and avenues named above, with the following conditions, however, which are hereby made a part of this approval:

First. The voltage shall not be greater than six hundred volts.

Second. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Third. Any and all changes of tracks, water, sewer or gas pipes, or other underground structures rendered necessary by the construction of the conduit, shall be by agreement with the official or officials of the city of New York who exercise the supervision of the construction of street railroads formerly exercised by the commissioner of public works of said city and under their direction and supervision, at the expense of the company doing the work.

Fourth. If a new rail is laid, it shall be such as shall be approved by the official or officials of the city of New York who exercise the supervision of the construction of street railroads formerly exercised by the commissioner of public works of said city.

Fifth. The company shall remove the snow from its tracks and not throw it on either side thereof.

Sixth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an inspector when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Seventh. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

Eighth. The company shall equip its cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

The Board does not at this time pass upon that part of the application which asks that approval be given to the use of compressed air motors and storage batteries in addition to underground electricity. In the future, when the company is ready to use either or both of these powers, whether on the same portions of railroad on which underground electricity is used, or on separate portions, it may apply to the Board for approval in each case. Inasmuch, however, as the public notices of the hearing which was held on January 17th set forth that the application covered all three powers, it will not be necessary to have a public hearing if the company makes such application.

III.

IN THE MATTER OF THE APPLICATION OF THE OCEAN ELECTRIC RAILWAY COMPANY FOR THE APPROVAL BY THIS BOARD OF THE OPERATION OF ITS RAILROAD, AND THE RAILROAD OF THE ROCKAWAY VILLAGE RAILROAD COMPANY, BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER, UNDER SECTION 100 OF THE RAILROAD LAW.

May 26, 1899.

Application by the Ocean Electric Railway Company, having been duly made to this Board on or about May 26, 1899, for the approval by the Board of the operation of its railroad, and the railroad of the Rockaway Village Railroad Company, the stock of which latter company is owned by the Ocean Electric Railway Company, by the overhead electrical trolley system of motive power; and it appearing that this Board on August 12, 1897, granted to the said Ocean Electric Railway Company the certificate required under section 59 of the Railroad Law, that public convenience and a necessity require the construction of its railroad; and it having appeared in said proceeding that the said Ocean Electric Railway Company was the owner of the stock of the Rockaway Village Railroad Company, and that the articles of association of said Ocean Electric Railway Company set forth the streets occupied by the Rockaway Village Railroad; and it having appeared in said proceeding that the said railroads were to be operated by electricity, and it appearing by an affidavit filed with this application that the owners of more than one-half in value of the property bounded on said railroads have consented to the operation of said railroads by electricity, it is

Ordered, That said application be and it is hereby granted, and the Board of Railroad Commissioners hereby approves of the operation of the railroad of the Ocean Electric Railway Company, and of the railroad of the Rockaway Village Railroad Company, by the overhead electrical trolley system of motive power, with the following conditions, which are hereby made a part of this approval:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

IV.

IN THE MATTER OF THE APPLICATION OF THE MASSENA ELECTRIC STREET RAILWAY COMPANY, UNDER SECTION 100 OF THE RAILROAD LAW, FOR THE APPROVAL OF THIS BOARD OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

July 18, 1899.

Application by the Massena Electric Street Railway Company, under section 100 of the Railroad Law, having been duly made to this Board, on or about July 1, 1899, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system of motive power, and it appearing that the articles of association of said company contain a provision that its railroad shall be operated by electricity, and it appearing that this Board, on June 14, 1899, granted the said company the certificate required under section 59 of the Railroad Law that public convenience and a necessity require the construction of its railroad, it is

Ordered, That the Board of Railroad Commissioners hereby approves of the operation of the railroad of the Massena Electric Street Railway Company by the overhead electrical trolley system of motive power upon the route as set forth in the articles of association of said company, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track: No person (except an instructor when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

V.

IN THE MATTER OF THE APPLICATION OF THE NEWBURGH ELECTRIC RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE USE OF THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER ON AN EXTENSION OF ITS RAILROAD.

October 31, 1899.

Application by the Newburgh Electric Railway Company having been duly made to this Board on or about October 23, 1899, for the approval of the Board of the operation of an extension of its railroad, for a distance of about six blocks, in the city of Newburgh, by the overhead electrical trolley system, and it appearing that this Board, under date of April 17, 1894, approved of a change of motive power from horses to the overhead electrical trolley system of motive power in the operation of said Newburgh Electric Railway, and it appearing that the requisite

consents of property owners have been obtained, as well as the consent of the local authorities, to the proposed operation of said extension by the overhead electrical trolley system, it is

Ordered, That said application be and it is hereby granted, and the Board hereby approves of the use of the overhead electrical trolley system of motive power in the operation of an extension of the railroad of the Newburgh Electric Railway Company, on Liberty street, in the city of Newburgh, from Renwick street to Bay View Terrace, with the following conditions, however, which are hereby made a part of this approval:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulations, as to speed or otherwise, by this Board as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such construction and height as to conform to the requirements of the local authorities.

Third. No motor car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every motor car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard-rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard-rail or device to be of such a nature that it may be transferred from one side to the other.

Decision of the Court of Appeals.

THE PEOPLE OF THE STATE OF NEW YORK EX REL. BABYLON RAILROAD COMPANY, RESPONDENT, v. THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK ET AL., APPELLANTS.

People ex rel. Babylon R. R. Co. v. Comrs., 32 App. Div. 179, affirmed.

Appeal from an order of the Appellate Division of the Supreme Court in the third judicial department, entered July 14, 1898, reversing a determination of the State Board of Railroad Commissioners denying the application of the relator to change its motive power from horse power to "kinetic motor steam power."

Order affirmed, with costs, on opinion below.

All concur.

APPLICATIONS
FOR
INCREASE OF CAPITAL STOCK.

I.

**IN THE MATTER OF THE APPLICATION OF THE MANHATTAN RAILWAY
COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK
FROM \$30,000,000 TO \$48,000,000. .**

March 1, 1899.

STATE OF NEW YORK,
OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS. } ss.

The Board of Railroad Commissioners hereby approves the within certificate and the increase of the capital stock of the Manhattan Railway Company, as therein stated, from \$30,000,000, consisting of 300,000 shares of the par value of \$100 each, to \$48,000,000, to consist of 480,000 shares of the par value of \$100 each.

In witness whereof we have hereunto set our hands and affixed the seal of our office this first day of March, 1899.

FRANK M. BAKER.
GEO. W. DUNN.

Attest:

JOHN S. KENYON,
[L. S.] *Secretary.*

II.

**IN THE MATTER OF THE APPLICATION OF THE SYRACUSE, LAKESIDE
AND BALDWINVILLE RAILWAY FOR APPROVAL OF AN INCREASE OF
ITS CAPITAL STOCK FROM \$250,000 TO \$500,000.**

March 1, 1899.

Application having been made to this Board by the Syracuse, Lakeside and Baldwinsville Railway, on or about February 28, 1899, for approval of an increase of its capital stock from \$250,000

to \$500,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with due proof of the publication of the notice of said meeting, together with the affidavit of Edward A. Powell as to the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Syracuse, Lakeside and Baldwinsville Railway, from \$250,000 to \$500,000, be and the same is hereby approved by this Board, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

III.

IN THE MATTER OF THE APPLICATION OF THE ALBANY, HELDERBERG AND SCHOHARIE ELECTRIC RAILWAY COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$300,000 TO \$1,250,000.

March 29, 1899.

Application having been made to this Board by the Albany, Helderberg and Schoharie Electric Railway Company, on or about March 21, 1899, for approval of an increase of its capital stock from \$300,000 to \$1,250,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, showing a compliance with the provisions of the stock corporation law, together with the affidavits of William H. Slingerland, Jr., and others as to the purposes to which the proposed increase is to be devoted, and a hearing having been had upon said application on March 21, 1899, J. S. Frost and L. C. Warner appearing for said application, and no one in opposition thereto, it is

Ordered, That the increase of the capital stock of the Albany, Helderberg and Schoharie Electric Railway Company from \$300,000 to \$1,250,000 be and the same is hereby approved by this Board, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

IV.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, HAMBURG AND AURORA RAILWAY COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$200,000 TO \$400,000.

April 25, 1899.

Application having been made to this Board by the Buffalo, Hamburg and Aurora Railway Company, on or about April 25, 1899, for approval of an increase of its capital stock from \$200,000 to \$400,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, showing a compliance with the provisions of the Stock Corporation Law, together with the affidavits of Henry N. Bates and Adam J. Benzinger, and a hearing having been had upon said application on April 25, 1899, John S. Rockwell appearing for the application and no one in opposition thereto, it is

Ordered, That the increase of the capital stock of the Buffalo, Hamburg and Aurora Railway Company from \$200,000 to \$400,000 be and the same is hereby approved by this Board, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

V.

IN THE MATTER OF THE APPLICATION OF THE ROME CITY STREET RAILWAY COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$50,000 TO \$150,000.

May 3, 1899.

Application having been made to the Board of Railroad Commissioners by the Rome City Street Railway Company, on or about May 3, 1899, for approval of an increase of its capital stock from \$50,000 to \$150,000, and certificates of the proceedings of the stockholders' meeting, showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of capital stock of the Rome City Street Railway Company from \$50,000 to \$150,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VI.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL NEW YORK AND WESTERN RAILROAD COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM ONE MILLION TO TWO MILLIONS OF DOLLARS.

July 28, 1899.

Application having been made to the Board of Railroad Commissioners by the Central New York and Western Railroad Company, on or about July 18, 1899, for approval of an increase of its capital stock from \$1,000,000 to \$2,000,000, and certificates of the proceedings of the stockholders' meeting, showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of capital stock of the Central New York and Western Railroad Company from \$1,000,000 to \$2,000,000, be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VII.

IN THE MATTER OF THE APPLICATION OF THE COXSACKIE AND GREENVILLE TRACTION COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$200,000 TO \$350,000.

August 5, 1899.

Application having been made to the Board of Railroad Commissioners by the Cocksackie and Greenville Traction Company, on August 5, 1899, for approval of an increase of its capital stock from \$200,000 to \$350,000, and certificates of the proceedings of the stockholders' meeting, showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Cocksackie and Greenville Traction Company, from \$200,000 to \$350,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VIII.

IN THE MATTER OF THE APPLICATION OF THE THIRD AVENUE RAILROAD COMPANY FOR APPROVAL BY THE BOARD OF AN INCREASE OF ITS CAPITAL STOCK FROM \$12,000,000 TO \$40,000,000.

August 16, 1899.

Application having been made to the Board of Railroad Commissioners by the Third Avenue Railroad Company, on July 24, 1899, for approval of an increase of its capital stock from \$12,000,000 to \$40,000,00, and certificates of the proceedings of the stockholders' meeting showing a compliance with the provisions of the Stock Corporation Law having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Third Avenue Railroad Company from \$12,000,000 to \$40,000,000 be and the same is hereby approved and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of section 46 of the Stock Corporation Law.

IX.

IN THE MATTER OF THE APPLICATION OF THE FORTY-SECOND STREET, MANHATTANVILLE AND ST. NICHOLAS AVENUE RAILWAY COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$2,500,000 TO \$7,500,000.

August 16, 1899.

Application having been made to the Board of Railroad Commissioners by the Forty-Second Street, Manhattanville and St. Nicholas Avenue Railway Company, on July 24, 1899, for approval of an increase of its capital stock from \$2,500,000 to \$7,500,000, and certificates of the proceedings of the stockholders' meeting showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Forty-second Street, Manhattanville and St. Nicholas Avenue Railway Company from \$2,500,000 to \$7,500,000 be and the same is hereby approved and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of section 46 of the Stock Corporation Law.

X.

IN THE MATTER OF THE APPLICATION OF THE MASSENA ELECTRIC STREET RAILWAY COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$100,000 TO \$125,000.

August 16, 1899.

Application having been made to the Board of Railroad Commissioners by the Massena Electric Street Railway Company, on August 12, 1899, for approval of an increase of its capital stock from \$100,000 to \$125,000, and certificates of the proceedings of the stockholders' meeting showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the reasons for the proposed increase, and it appearing to the Board that the application should be granted, it is

Ordered, That the increase of the capital stock of the Massena Electric Street Railway Company from \$100,000 to \$125,000, be and the same is hereby approved, and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of section 46 of the Stock Corporation Law.

XI.

IN THE MATTER OF THE APPLICATION OF THE PORT CHESTER STREET RAILWAY COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$100,000 TO \$300,000.

September 13, 1899.

Application having been made to the Board of Railroad Commissioners by the Port Chester Street Railway Company, on August 15, 1899, for approval of an increase of its capital stock from \$100,000 to \$300,000, and a hearing having been given on said application at the office of the Board in Albany, on September 5, 1899, Frederick W. Sherman appearing for the applicant, and certificates of the proceedings of the stockholders' meeting showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Port Chester Street Railway Company from \$100,000 to \$300,000 be and the same is hereby approved, and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of section 46 of the Stock Corporation Law.

XII.

IN THE MATTER OF THE APPLICATION OF THE MARCELLUS ELECTRIC RAILROAD COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$60,000 TO \$200,000.

September 14, 1899.

Application having been made to the Board of Railroad Commissioners by the Marcellus Electric Railroad Company, on August 28, 1899, for approval of an increase of its capital stock from \$60,000 to \$200,000, and a hearing having been given on said application at the office of the Board in Albany, on September 14, 1899, Edward Moir appearing for the applicant, and certificates of the proceedings of the stockholders' meeting, showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the purposes to which the proposed increase is to be devoted, it is

Ordered, That the increase of the capital stock of the Marcellus Electric Railroad Company from \$60,000 to \$200,000 be, and the same is hereby approved, and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of section 46 of the Stock Corporation Law.

XIII.

IN THE MATTER OF THE APPLICATION OF THE GREENWICH AND SCHUYLerville ELECTRIC RAILROAD FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$200,000 TO \$500,000.

November 17, 1899.

Application having been made to the Board of Railroad Commissioners by the Greenwich and Schuylerville Electric Railroad, on November 17, 1899, for approval of an increase of its capital stock from \$200,000 to \$500,000, and certificates of the proceedings of the stockholders' meeting, showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, together with proof of the reasons for the proposed increase, and it appearing to the Board that the application should be granted, it is

Ordered, That the increase of the capital stock of the Greenwich and Schuylerville Electric Railroad from \$200,000 to \$500,000 be, and the same is hereby approved, and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XIV.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY FOR APPROVAL OF AN INCREASE OF ITS CAPITAL STOCK FROM \$100,000,000 TO \$115,000,000.

December 15, 1899.

Application having been made to the Board of Railroad Commissioners by the New York Central and Hudson River Railroad Company, on or about December 11, 1899, for approval of an increase of the capital stock of said company from \$100,000,000 to \$115,000,000, and certificates of the proceedings of the stockholders' meeting, showing a compliance with the provisions of the Stock Corporation Law, having been submitted to the Board, and a hearing having been given on said application on December 15, 1899, in the city of New York, Samuel E. Williamson and Ira A. Place appearing for said application; and the purposes to which the proposed increase is to be devoted appearing from the affidavits of Samuel R. Callaway and A. M. Waitt herein; and it appearing to the Board that the application should be granted, it is

Ordered, That the increase of the capital stock of the New York Central and Hudson River Railroad Company from \$100,000,000 to \$115,000,000 be, and the same is hereby approved by the Board of Railroad Commissioners, and that endorsement of such approval be made upon the certificates of the stockholders' meeting, according to the provisions of section 46 of the Stock Corporation Law.

Applications for Consent to the Issue of Mortgages.

I.

IN THE MATTER OF THE APPLICATION OF THE OLEAN STREET RAILWAY COMPANY FOR CONSENT TO THE ISSUANCE OF A FIRST MORTGAGE.

June 29, 1899.

Application having been made to the Board of Railroad Commissioners by the Olean Street Railway Company, on or about June 23, 1899, for the consent of said Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage for \$225,000, and a hearing having been given on said application on June 29, 1899, Fred L. Eaton appearing for the applicant; and the purpose for which the said first mortgage is to be issued appearing from the petition, verified by Clare Willard, president of said company, to wit, the taking up and cancelling of mortgage bonds already outstanding, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Olean Street Railway Company of a first mortgage, amounting in the aggregate to \$225,000.

II.

IN THE MATTER OF THE APPLICATION OF THE OLEAN STREET RAILWAY COMPANY FOR CONSENT TO THE ISSUANCE OF A SECOND MORTGAGE.

June 29, 1899.

Application having been made to the Board of Railroad Commissioners by the Olean Street Railway Company, on or about June 23, 1899, for the consent of said Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a second mortgage for \$60,000, and a hearing having been given on said

application on June 29, 1899, Fred L. Eaton appearing for the applicant; and the purpose for which the said second mortgage is to be issued appearing from the petition, verified by Clare Willard, president of said company, to wit, the payment of certain outstanding unfunded obligations, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Olean Street Railway Company of a second mortgage, amounting in the aggregate to \$60,000.

III.

IN THE MATTER OF THE APPLICATION OF THE KINGS COUNTY ELEVATED RAILROAD COMPANY FOR CONSENT OF THE BOARD OF RAILROAD COMMISSIONERS TO MORTGAGE ITS PROPERTY AND FRANCHISES.

July 18, 1899.

The Kings County Elevated Railroad Company having applied to this Board under section 583 of the Laws of 1899 for consent to mortgage its property and franchises, by notice of application dated July 11, 1899, and such motion coming on to be heard on the 18th day of July, 1899, before the Railroad Commissioners in Albany, and after hearing Charles L. Kingsley, of counsel for the applicant, it is hereby

Ordered, That consent of the Board be and the same hereby is given to the issuance of a mortgage in accordance with the application filed.

IV.

IN THE MATTER OF THE APPLICATION OF THE PITTSBURG, SHAWMUT AND NORTHERN RAILROAD COMPANY FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE.

August 3, 1899.

Application having been made to the Board of Railroad Commissioners by the Pittsburg, Shawmut and Northern Railroad Company, on August 3, 1899, for the consent of said Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage for \$12,000,000, and a hearing having been given on said application on August 3, 1899, Lewis F. Wilson appearing for the applicant, and the purposes for which the said first mortgage is to be issued appearing from a verified

petition herein, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents, and it does hereby consent, to the issuance by the Pittsburg, Shawmut and Northern Railroad Company of a first mortgage, amounting in the aggregate to \$12,000,000.

V.

IN THE MATTER OF THE APPLICATION OF THE ELMIRA AND SENECA LAKE RAILWAY COMPANY FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE FOR \$300,000.

August 4, 1899.

Application having been made to the Board of Railroad Commissioners by the Elmira and Seneca Lake Railway Company, on August 4, 1899, for the consent of said Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage for \$300,000, and a hearing having been duly given on said application on August 4, 1899, Boyd McDowell appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the verified petition herein, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consent and it does hereby consent to the issuance by the Elmira and Seneca Lake Railway Company of a first mortgage, amounting in the aggregate to \$300,000.

VI.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR CONSENT TO THE ISSUE OF A MORTGAGE.

August 4, 1899.

Application having been made to the Board of Railroad Commissioners by the Long Island Railroad Company, on August 4, 1899, for the consent of said Board (under chapter 583, of the Laws of 1899) for the issuance by said company of a unified mortgage, dated March 1, 1899, for \$45,000,000, and a hearing

having been duly given on said application on August 4, 1899, W. J. Kelly appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the verified petition herein and from said mortgage, a copy of which is on file with the Board, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Long Island Railroad Company of said unified mortgage, dated March 1, 1899, amounting in the aggregate to \$45,000,000.

VII.

IN THE MATTER OF THE APPLICATION OF THE ALBANY, HELDERBERG AND SCHOHARIE ELECTRIC RAILWAY COMPANY FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE FOR \$1,200,000.

August 16, 1899.

Application having been made to the Board of Railroad Commissioners by the Albany, Helderberg and Schoharie Electric Railway Company, on August 16, 1899, for the consent of said Board (under chapter 583, of the Laws of 1899), to the issuance by said company of a first mortgage for \$1,200,000, and a hearing having been duly given on said application on August 16, W. H. Van Steenbergh appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the affidavit of W. H. Erwin herein and on file with this Board, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consent and it does hereby consent to the issuance by the Albany, Helderberg and Schoharie Electric Railway Company of a first mortgage amounting in the aggregate to \$1,200,000.

VIII.

IN THE MATTER OF THE APPLICATION OF THE GREENWICH AND SCHUYLerville ELECTRIC RAILROAD, FOR CONSENT TO THE ISSUE OF A MORTGAGE FOR \$500,000.

August 24, 1899.

Application having been made to the Board of Railroad Commissioners by the Greenwich and Schuylerville Electric Railroad,

on or about August 16, 1899, for the consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a mortgage for \$500,000, and hearings having been duly given on said application on August 16th and August 24th, J. A. Powers appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the affidavit herein of A. W. Powers, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Greenwich and Schuylerville Electric Railroad of a mortgage, amounting in the aggregate to \$500,000. This consent has been endorsed upon the mortgage.

IX.

IN THE MATTER OF THE APPLICATION OF THE COXSACKIE AND GREENVILLE TRACTION COMPANY FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE FOR \$350,000.

August 24, 1899.

Application having been made to the Board of Railroad Commissioners by the Coxsackie and Greenville Traction Company, on August 11, 1899, for the consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage for \$350,000, and a hearing having been given on said application on August 24th, N. A. Calkins appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the affidavit herein of George C. Spencer, on file with this Board, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Coxsackie and Greenville Traction Company of a first mortgage, amounting in the aggregate to \$350,000.

The company claims that it now has the right to issue a mortgage for \$200,000, its purpose, however, being to issue a mortgage for \$350,000, including the \$200,000. It is hereby distinctly understood that the first mortgage, the issue of which the Board now consents to, includes the \$200,000 of bonds which the company claims the right to issue and mortgage its property for without the consent of this Board, so that no mortgage may be made

or bonds issued by the company except the mortgage hereby consented to, without further application to this Board under the statute.

X.

IN THE MATTER OF THE APPLICATION OF THE STATEN ISLAND RAPID TRANSIT RAILWAY COMPANY FOR THE CONSENT OF THE BOARD OF RAILROAD COMMISSIONERS TO MORTGAGE ITS PROPERTY AND FRANCHISES.

August 29, 1899.

The Staten Island Rapid Transit Railway Company having applied to this Board by petition dated August 23, 1899, under chapter 583 of the Laws of 1899, for consent to mortgage the property and franchises to be acquired by it as set forth in the said petition, and such application coming on to be heard on this 29th day of August, 1899, before the Railroad Commissioners in the city of New York, and after hearing Felix M. Gernsheim, of counsel, it is

Ordered, That the consent of the Board be and the same hereby is given to the issuance of a mortgage, in accordance with the petition filed.

XI.

IN THE MATTER OF THE APPLICATION OF THE SCHOHARIE VALLEY RAILWAY COMPANY FOR CONSENT TO THE ISSUE OF A MORTGAGE FOR \$40,000.

September 5, 1899.

Application having been made to the Board of Railroad Commissioners by the Schoharie Valley Railway Company, on or about September 5, 1899, for the consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a mortgage for \$40,000, and a hearing having been given on said application on September 5, 1899, Stephen L. Mayham appearing for the applicant, and the purpose for which the said mortgage is to be issued appearing from the affidavit herein, of William J. Vroman, and it appearing that the owners of stock to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consent and it does hereby consent to the issuance by the Schoharie Valley Railway Company of a mortgage, amounting in the aggregate to \$40,000.

XII.

IN THE MATTER OF THE APPLICATION OF THE ALBANY AND HUDSON RAILWAY AND POWER COMPANY FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE FOR \$2,500,000.

October 17, 1899.

Application having been made to this Board by the Albany and Hudson Railway and Power Company, on or about October 9, 1899, for consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage for \$2,500,000, and a hearing having been given on said application on October 17, 1899, C. H. Werner appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the affidavit herein, of C. H. Werner, and it appearing that the owners of stock to an amount equal to that required by the statute, have consented to the issuance of said mortgage, it is.

Ordered, That the Board of Railroad Commissioners consent and it does hereby consent to the issuance by the Albany and Hudson Railway and Power Company of a first mortgage, amounting in the aggregate to \$2,500,000.

XIII.

IN THE MATTER OF THE APPLICATION OF THE CHATHAM AND LEBANON VALLEY RAILROAD FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE FOR \$350,000.

October 30, 1899.

Application having been made to this Board by the Chatham and Lebanon Valley Railroad, on October 30, 1899, for consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage for \$350,000, and a hearing having been given on said application on October 30th, A. B. Gardenier appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the petition herein, and from the testimony of A. B. Gardenier, and it appearing that the owners of stock to an amount equal to that required by the statute, have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consent and it does hereby consent to the issuance by the Chatham and Lebanon Valley Railroad of a first mortgage, amounting in the aggregate to \$350,000.

XIV.

IN THE MATTER OF THE APPLICATION OF THE OSWEGO TRACTION COMPANY FOR CONSENT TO THE ISSUE OF A FIRST MORTGAGE OF \$100,000 AND A SECOND MORTGAGE OF \$200,000.

November 17, 1899.

Application having been made to this Board by the Oswego Traction Company, on October 13, 1899, for the consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a first mortgage of \$100,000 and a second mortgage of \$200,000, and a hearing having been given on said application on November 17, 1899, S. M. Coon appearing for the applicant, and the purposes for which said mortgages are to be issued appearing from the petition and from the affidavit of S. M. Coon herein; and it appearing that the owners of stock to an amount equal to that required by the statute, have consented to the issue of said mortgages, it is

Ordered, That the Board of Railroad Commissioners consent and it does hereby consent to the issuance by the Oswego Traction Company of a first mortgage of \$100,000 and of a second mortgage of \$200,000.

XV.

IN THE MATTER OF THE APPLICATION OF THE SARATOGA TRACTION COMPANY, FOR CONSENT TO THE ISSUE OF A MORTGAGE FOR \$300,000.

December 8, 1899.

Application having been made to the Board of Railroad Commissioners by the Saratoga Traction Company, on or about November 20, 1899, for the consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company, of a mortgage for \$300,000 and bonds thereunder to that amount, and a hearing having been duly given on said application on this day, John L. Henning appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the affidavits of Richard S. Storrs, treasurer of said Saratoga Traction Company, and Frank B. Lee, its superintendent; and it appearing that the owners of stock to an amount equal to that required by the statute, have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Saratoga Traction Company of a mortgage, amounting in the aggregate to \$300,000.

XVI.

IN THE MATTER OF THE APPLICATION OF THE RAQUETTE LAKE RAILWAY COMPANY FOR CONSENT TO THE ISSUE OF A MORTGAGE OF \$250,000.

December 8, 1899.

Application having been made to the Board of Railroad Commissioners by the Raquette Lake Railway Company, on December 2, 1899, for the consent of the Board (under chapter 583 of the Laws of 1899) to the issuance by said company of a mortgage of \$250,000, and a hearing having been duly given on said application on December 8, 1899, C. E. Snyder appearing for the applicant, and the purposes for which the said mortgage is to be issued appearing from the affidavit herein of Edward M. Burns, and it appearing that the owners of capital stock in the company to an amount equal to that required by the statute have consented to the issuance of said mortgage, it is

Ordered, That the Board of Railroad Commissioners consents and it does hereby consent to the issuance by the Raquette Lake Railway Company, of a mortgage amounting in the aggregate to \$250,000.

Applications for a Certificate Under Section 59 of the Railroad Law.

I.

IN THE MATTER OF THE APPLICATION OF THE ROCHESTER AND SODUS
BAY RAILWAY FOR A CERTIFICATE UNDER SECTION 59 OF THE
RAILROAD LAW.

January 24, 1898.

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, under section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant, the Rochester and Sodus Bay Railway, and that public convenience and a necessity require the construction of the railroad of the applicant, as proposed in its articles of association and as shown upon a map filed with the Board in this proceeding by the applicant, marked "Applicant's Exhibit No. 1. Oct. 19, '98. E. C. McE."

By the Board,
JOHN S. KENYON,
Secretary.

MEMORANDUM.

James M. E. O'Grady and Charles Van Voorhis for the applicant. Ira A. Place and Albert H. Harris for the New York Central and Hudson River Railroad Company (lessee of the Rome, Watertown and Ogdensburg Railroad) in opposition.

This application was filed with the Board on September 26, 1898. It asks for a certificate that public convenience and a necessity require the construction of the railroad of the applicant. Satisfactory proof of the fulfillment of the conditions of section 59 was filed with the Board. The electrical expert made an inspection of the proposed route and a report. Hearings were given in the city of Rochester on October 19th and December 14th, and in the city of Albany on November 23d and January 6th. Much testimony was taken at these hearings. The applicant proposes to build a street surface railroad, to be operated by the overhead electrical system, from Sodus Point, on Lake

Ontario, in the county of Wayne, to and partly through the city of Rochester, which places shall be its termini and its length is to be about forty-two miles, including a branch line described in the articles of association. The New York Central and Hudson River Railroad Company filed an answer contravening the allegations of the petition, and alleging that the existing railroads, to wit: the Rome, Watertown and Ogdensburg, the New York Central and Hudson River and the Northern Central, "are ample and sufficient to perform all the railroad service required by the people living along the route of the proposed railroad, or contiguous or tributary thereto." The proposed railroad after leaving the city of Rochester crosses Irondequoit Bay and continues in, and along the side of, the highway known as the Ridge road to Sodus village. It then follows the highways easterly and northeasterly, leaving them, however, at certain points and passing through private property, so as to take advantage of easier grades and a shorter route, to Sodus Point. Leaving Rochester the railroad first passes through the town of Irondequoit, touches the town of Penfield, enters the town of Webster, passes through the villages of West Webster, Webster and Union Hill, then enters the town of Ontario, passing through the village of Ontario and the village of Ontario Center, then enters the town of Williamson, passing through the villages of Williamson and East Williamson, then enters the town of Sodus, and passes through the village of Sodus and the village of Wallington to Sodus Point. The evidence shows that the territory through which the proposed road passes is well peopled. For a considerable portion of its route the proposed road is parallel to the Rome, Watertown and Ogdensburg Railroad, and it is urged in opposition that the steam railroad serves the requirements of public convenience and necessity for transportation in this locality. This Board is of the opinion, however, from the evidence produced at the hearings, that the proposed railroad is needed. It will offer facilities for transportation, which, it seems to the Board, the people of this community are entitled to have to serve their necessities and convenience. It is plain there is much traffic to and from Rochester by wagon, which it seems clear would be better served by an electric railroad. The existing steam railroad, it seems to the Board, does not now and cannot furnish the facilities required by the public in this territory, and which the proposed electric railroad can supply. The intent of section 59 of the Railroad Law is to forbid the building of unnecessary railroads. In this case, however, although there is an existing steam railroad, its stations are remote from the villages. It appears to the Board that the proposed road is neces-

sary, and that the existence of the steam railroad, which is a part of a long line of railroad connecting principal points, but not designed to locally serve this territory alone, is not sufficient reason for refusal of the certificate applied for, in the light of the evidence of public convenience and necessity to be served by the new road. The population is large and the city of Rochester is its objective point for general business, and to a great extent for a market. These purposes would be greatly facilitated by the construction of the new railroad, and the Board believes that there is sufficient traffic to support it without materially affecting the traffic of the steam railroad. The applicant contends that its railroad would also afford Rochester people direct access to a summer resort at Sodus Point; the opposition answering that Sodus Point may now be reached by the New York Central and the Northern Central railroads in conjunction. Evidence was taken by the Board in executive session as to the bona fide intention and financial ability of the projectors to build the railroad if the certificate is granted, from which evidence the Board feels assured that the road will be constructed.

After a careful consideration of the evidence the Board has concluded that public convenience and a necessity require the construction of the Rochester and Sodus Bay Railway, and has issued its certificate to that effect.

II.

IN THE MATTER OF THE APPLICATION OF THE EAST SIDE TRACTION COMPANY OF SYRACUSE FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

February 15, 1899.

This application was filed with the Board on February 10, 1899. It appears from the petition of the company and from the affidavit of Robert E. Drake, former secretary of the Syracuse and East Side Railway Company, that the lines of railroad mentioned and described in the certificate of incorporation of the East Side Traction Company and in the petition of the East Side Traction Company for a certificate of public convenience and necessity under section 59 of the Railroad Law, are identical with the lines of railroad and franchises which were formerly owned by the Syracuse and East Side Railway Company; that said certificate of incorporation and petition of the East Side Traction Company do not contain any other route of railroad

than those formerly owned by the Syracuse and East Side Railway Company. It also appears that a contract has been entered into for the sale of the property of the Syracuse and East Side Railway Company to the applicant.

Under these circumstances, it does not appear to the Board that it is necessary for the applicant to secure a certificate of public convenience and a necessity under section 59 of the Railroad Law, and the application for such certificate is, therefore, refused.

III.

IN THE MATTER OF THE APPLICATION OF THE RAQUETTE LAKE RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

April 11, 1899.

On reading and filing the application of the Raquette Lake Railway Company, for a certificate under section 59 of the Railroad Law, verified March 10, 1899, by Edward M. Burns, vice-president and general manager, the articles of association of said company and due proof of the publication thereof, due proof of the publication of the notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application on March 29, C. E. Snyder appearing for said application, R. Burnham Moffat and William F. Rathbone and others appearing in opposition, and after an adjourned hearing on April 11, at which no one appeared in opposition in person, but Hadley Jones appeared by letter, withdrawing his opposition, and after hearing evidence of a representative of the Fisheries, Game and Forest Commission in favor of said application, and after reading and filing the report of the electrical expert of this Board of his inspection of the proposed route, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant and that public convenience and a necessity require the construction of the said railroad, as proposed in its articles of association and as shown upon said map.

IV.

IN THE MATTER OF THE APPLICATION OF THE MASSENA ELECTRIC STREET RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 14, 1899.

On reading and filing the application of the Massena Electric Street Railway Company, for a certificate under section 59 of the Railroad Law, by Thomas H. Gillespie, president, verified March 27, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application, on April 19, 1899, Howard Hasbrouck appearing for said application and no one in opposition thereto, and after reading and filing the affidavit of Henry H. Warren and others, and after reading and filing the report of the electrical expert for this Board, of his inspection of the proposed route of said company, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company, and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant, the Massena Electric Street Railway Company, and that public convenience and a necessity require the construction of the applicant's railroad, as proposed in its articles of association and as shown upon said map.

V.

IN THE MATTER OF THE APPLICATION OF THE STONY POINT HARBOR AND TERMINAL JUNCTION RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 15, 1899.

This application, by the Stony Point Harbor and Terminal Junction Railroad Company, was filed with this Board on April 21, 1899. It asked for a certificate, under section 59 of the Rail-

road Law, that public convenience and a necessity required the building of the applicant's railroad, a steam railroad proposed to be built from a point near the junction of the Terminal Railway of Buffalo with the Lake Shore and Michigan Southern Railway, at Smokes Creek, Buffalo, to Buffalo Harbor, at Stony Point, in the town of West Seneca, Erie county. A date for hearing was set, but was postponed at request of the applicant. After considerable correspondence, the company withdrew its application.

VI.

IN THE MATTER OF THE APPLICATION OF THE SOUTH BUFFALO RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 21, 1899.

On reading and filing the application of the South Buffalo Railway Company, for a certificate under section 59 of the Railroad Law, by John J. Albright, president, verified May 26, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application, on June 14, 1899, John G. Milburn appearing for said application, and John S. Rockwell and Ira A. Place in opposition thereto, which opposition was subsequently withdrawn, and after a personal inspection of the proposed route of said company, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company, and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant, the South Buffalo Railway Company, and that public convenience and a necessity require the construction of the applicant's railroad, as proposed in its articles of association and as shown upon said map.

VII.

IN THE MATTER OF THE APPLICATION OF THE BABYLON AND NORTH SHORE RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

July 18, 1899.

This application, by the Babylon and North Shore Railroad Company, was filed with this Board on October 28, 1898. The company was incorporated to build a railroad of standard gauge to be operated by "Kinetic Stored Steam Motors," from the village of Babylon to the village of Northport, or the village of Huntington, "which places will be its termini, and the length will be about sixteen miles" (articles of association). The matter was not considered by the Board until May, 1899, there being pending in the courts the matter of a refusal by this Board of the application of the Babylon Railroad Company for approval of the operation of its railroad by Kinetic Stored Steam Motors. On May 16, 1899, a hearing in this application was given in the city of New York. Charles L. Easton appeared for the applicant, and Dr. W. R. Bross, of West Islip, L. I., appeared as a property owner in opposition. After hearing evidence of the applicant the hearing was adjourned. The adjourned hearing took place in the city of New York, on June 21st, at which Charles L. Easton and George B. Studley appeared for the applicant, and Dr. W. R. Bross, E. B. Sutton and Henry P. Keith in opposition. At the hearings oral testimony and affidavits were presented by the applicant as to the public convenience and the necessity requiring the construction of its railroad. At the hearing on June 21st, the opposition contended that there was no public convenience or necessity to be served by the proposed road, and that if it was built it would be detrimental to local property interests. It does not appear to the Board that public convenience and a necessity require such construction. Commencing at Babylon, and running easterly, the proposed route parallels the Montauk Division, Long Island Railroad, to Bay Shore. The public is adequately accommodated between these points by the latter named railroad. At Bay Shore the route of the applicant turns northward, Brentwood, an unincorporated village, being the first village reached after leaving Bay Shore. Brentwood is on the main line of the Long Island Railroad, and is accommodated by it. Between Bay Shore and Brentwood there seems to be no present necessity for the construction of any railroad. From Brentwood the route continues northerly to East Northport, on the Port Jefferson branch of the Long Island Railroad, and the traffic of East Northport is accommo-

dated by that railroad. It does not appear to the Board from the evidence that public convenience and a necessity require the construction of a railroad between these latter named points. From East Northport the route continues northerly, for a short distance, to Northport, also on the Long Island Railroad. The map filed with the Board shows the route continuing north and westward to Eaton's Neck, on Long Island sound. The articles of association of the company, as stated above, give one terminal of the route at Northport or Huntington, the company having selected Northport rather than Huntington. So far as that portion of the route shown on the map extending to and making the terminal at Eaton's Neck is concerned, even if it may be considered, in view of the declaration in the articles of association making Northport the terminus, the Board does not perceive that there exists any public convenience and necessity for the construction of the railroad in that territory. The only settlements upon or near the entire route which are not upon the Long Island Railroad are those known as Comac and Elwood, the joint population of which is about four hundred, as reported by the electrical expert of this Board, who made an examination of the proposed route. The evidence offered as to the necessity and the convenience of transportation which this railroad would afford between the north shore of the island and the south shore is not convincing. There is very little local traffic to be accommodated, and what excursion traffic there might be from the north shore to the south shore during the summer is conjectural. Such traffic does not now exist. It is urged that people living in Connecticut, in the vicinity of Norfolk and Stamford, could by crossing the sound, were this railroad constructed, reach the Great South bay summer resorts with much saving of time. The Board does not believe that an indefinite and problematical possibility of merely summer traffic constitutes public convenience and necessity. There is also some testimony about a traffic in meat which might be created between Stamford and the south shore of Long Island, through the operation of this railroad in connection with steamboats plying on the sound. There is also some evidence as to greater facility which would be offered by the proposed railroad for reaching the county seat of Suffolk county, at Riverhead, and other villages at the easterly end of the main line of the Long Island Railroad. There was not sufficient evidence, however, as to either of these latter considerations, to show that public convenience and necessity require the construction of the railroad.

The Board does not consider that the evidence presented would justify it in issuing a certificate that public convenience and necessity require the construction of the applicant's railroad. A certificate is, therefore, refused.

The applicant has requested the board to certify a copy of the maps and papers in the case, which, it is understood, will be presented to the Appellate Division of the Supreme Court for review.

VIII.

IN THE MATTER OF THE APPLICATION OF THE JAMESTOWN TERMINAL RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

July 18, 1899.

This application, by the Jamestown Terminal Railroad Company, for a certificate under section 59 of the Railroad Law, was filed with this Board on April 22, 1899. The articles of association of the company state:

"*Third.* The kind of road to be built and operated shall be a railroad of standard gauge, to be operated by locomotive steam power.

"*Fourth.* Such railroad is to be built, maintained and operated from the present easterly terminus of the Jamestown and Lake Erie Railroad at Steele street, in the city of Jamestown, Chautauqua county, New York, to the easterly bounds of Winsor street, in said city, immediately north of and adjacent the lands and premises of Y. W. Burtch & Co., which places will be its termini, and its length will be about and not exceeding one mile."

The petition alleges that after the filing of its articles of association a change of termini was made, the route as now proposed being shown on a map filed with the Board. A hearing on the application was given by the Board in Albany, on June 13, 1899, the Board having previously inspected the proposed route. H. R. Lewis appeared for the applicant; Jerome B. Fisher appeared for the Jamestown Street Railway Company, in opposition. It is urged in opposition, among other things, that the proposed railroad would compete with the Jamestown Street Railway Company. It is also contended in opposition that, inasmuch as the changed route is about one mile and one-half in length, the affidavit attached to the certificate of incorporation of the applicant that ten per cent. (\$1,000) of the minimum amount of capital stock authorized by law has been subscribed and paid in cash, is not now a compliance with the provisions of section 2 of the Railroad Law, although it may have been when the route of the company, as stated in its articles, did not exceed one mile in length. The Board believes that the company having so lengthened its route, should have filed an amended certificate of incorporation, showing that the statutory

requirement as to the ten per cent. has been complied with. The Board is confirmed in this view by the fact that the company is applying to it under section 59 as a new company and for a particular route, in the same manner as any company whose route has not been changed must apply. In the latter case the articles must of necessity show that ten per cent. of the minimum amount of capital stock has been subscribed and paid. There seems to be no good reason why, if the applicant must comply with the provisions of section 59, it should not show that it has literally complied with the provisions of section 2. However, it appearing to the Board that convenience and a necessity do not require the construction of the proposed railroad, it is not necessary to enlarge upon this point.

The object of the proposed railroad is to furnish switching facilities for freight cars from the several manufactories in Jamestown to the Erie Railroad. It appears, however, that all but few manufactories reached or to be reached by the proposed railroad are now, or can readily, by the construction of additional switches, be reached by the Erie Railroad. It also appears that the proposed route will cross seven city streets and run partially through two others. For accessibility it is proposed to construct the railroad across six of these streets at grade, the seventh to be beneath grade. While the question of grade crossings should not, in the opinion of the Board, be considered a complete bar (section 60, Railroad Law) to the construction of the proposed railroad, and should, perhaps, be considered in a separate proceeding, under section 60 of the Railroad Law, yet the fact that those grade crossings are necessary if the road is to be constructed, and that the applicant has declared that the road cannot be operated across these six streets otherwise than at grade, may be considered an additional reason for refusing a certificate, when it does not appear clearly that public convenience and a necessity require such construction. It was also urged in opposition that if the road of the applicant company were constructed it would be enabled to charge an arbitrary freight rate. To this the applicant answered that a franchise granted to it by the city fixes the maximum amount it may charge.

After a personal inspection of the route of the applicant, and after careful consideration of the evidence submitted at the hearing, the Board is of the opinion that public convenience and a necessity do not require the construction of the applicant's railroad. The certificate is, therefore, refused.

IX.

IN THE MATTER OF THE APPLICATION OF THE CENTRAL NEW YORK
AND NORTHERN RAILROAD COMPANY FOR A CERTIFICATE UNDER
SECTION 59 OF THE RAILROAD LAW.

July 28, 1899.

On reading and filing the application of the Central New York and Northern Railroad Company, for a certificate under section 59 of the Railroad Law, by William W. Clark, a director, ver filed June 27, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of the notice of hearing before this Board, a map showing the proposed route of said railroad, and after public hearings on said application on July 18, July 24 and July 28, 1899, Frank Sullivan Smith appearing for said application, George F. Brownell appearing for the Erie Railroad Company, C. E. Paulding appearing for the New York Central and Hudson River Railroad Company, J. F. Schaperkottter appearing for the Lehigh Valley Railroad Company, George M. Diven appearing for the Northern Central Railway Company, James Archibald appearing for the Delaware, Lackawanna and Western Railroad Company, and after reading and filing the report of the inspector of this Board of his inspection of the proposed route of said company, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant, the Central New York and Northern Railroad Company, and that public convenience and a necessity require the construction of the applicant's railroad, as proposed in its articles of association and as shown upon said map.

X.

IN THE MATTER OF THE APPLICATION OF THE PERRY, CASTILE, SILVER SPRINGS AND PIKE RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 24, 1899.

On reading and filing the application of the Perry, Castile, Silver Springs and Pike Railway Company, for a certificate under

section 59 of the Railroad Law, by Joseph M. Duncan, president, dated June 26, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad; and after a public hearing on said application in the village of Perry, on August 3, 1899, Greenleaf S. Van Gorder appearing for said application, and George F. Brownell, J. H. Stevens, C. A. Brunn and M. A. Lovejoy in opposition thereto; and after reading and filing the report of the inspector of this Board, of his inspection of the proposed route of said company; and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant, the Perry, Castile, Silver Springs and Pike Railway Company, and that public convenience and a necessity require the construction of the applicant's railroad, as proposed in its articles of association and as shown upon said map.

XI.

IN THE MATTER OF THE APPLICATION OF THE NYACK AND SOUTHERN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 24, 1899.

This application, by the Nyack and Southern Railroad Company, was filed with this Board on or about July 28, 1899. The applicant asks that the Board issue to it a certificate, under section 59 of the Railroad Law, that public convenience and a necessity require the construction of its railroad. It appears that the applicant company was formed to operate a railroad now constructed and which has been in operation for many years, known as the Nyack and Northern Railroad.

Under these circumstances, the applicant company having been organized, as stated, to operate a railroad already constructed, this Board holds that the provisions of section 59 of the Railroad Law do not apply to it.

XII.

IN THE MATTER OF THE APPLICATION OF THE MINEOLA, HEMPSTEAD AND FREEPORT TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

September 5, 1899.

On reading and filing the application of the Mineola, Hempstead and Freeport Traction Company, for a certificate under section 59 of the Railroad Law, by William J. Newton, president, dated March 18, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of the notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application in the city of New York, on June 21, 1899, J. A. MacElhinny and Louis Bedell appearing for said application, and A. A. Gardner for the Flushing and South Shore Railroad Company and the Long Island Railroad Company in opposition, and Fred Ingraham appearing for the Nassau Belt Line Traction Company in opposition, M. L. Bruce appearing in opposition to the building of a railroad on Greenwich street, in the village of Hempstead, and after reading and filing the report of the electrical expert of this Board of his inspection of the proposed route of said company, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company and that public convenience and a necessity require the construction of its railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the said company, the Mineola, Hempstead and Freeport Traction Company, and that public convenience and a necessity require the construction of said company's railroad.

XIII.

IN THE MATTER OF THE APPLICATION OF THE PENN YAN, LAKE KEUKA AND SOUTHERN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

September 13, 1899.

This application, by the Penn Yan, Lake Keuka and Southern Railroad Company, was filed with this Board on July 11, 1899. It asked for a certificate, under section 59 of the Railroad Law,

that public convenience and a necessity required the building of the applicant's railroad, a steam railroad proposed to be operated from the village of Savona, Steuben county, N. Y., to the village of Penn Yan, Yates county, N. Y., a distance of 35 miles. A hearing, after due notice, was given in the city of Binghamton, on July 28, 1899. George F. Andrews and J. H. Roberts appeared for the applicant. C. C. Paulding appeared for the New York Central and Hudson River Railroad Company, in opposition. E. C. English appeared for the Penn Yan and Pennsylvania Railroad Company, in opposition. W. C. Percy appeared for the Bath and Hammondsport Railroad Company and the Lake Navigation Company, in opposition. After hearing evidence and arguments, the hearing was adjourned until Saturday, August 5th, at the office of the Board in Albany. The hearing was further adjourned from August 5th to August 25th. Finally, under date of September 11th, the applicant notified the Board that it withdrew its application.

XIV.

IN THE MATTER OF THE APPLICATION OF THE ALBANY AND HUDSON RAILWAY AND POWER COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

September 14, 1899.

On reading and filing the application of the Albany and Hudson Railway and Power Company, for a certificate under section 59 of the Railroad Law, by Charles C. Clark, one of its directors, dated August 26, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of the notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application in the city of Albany, on September 14, 1899, C. A. Collin appearing for said application, and no one in opposition thereto, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant company, the Albany and Hudson Railway and Power Company, and that public convenience and a necessity require the construction of the applicant company's railroad, as proposed in its articles of association and as shown upon said map.

XV.

IN THE MATTER OF THE APPLICATION OF THE DUNKIRK AND POINT GRATIOT TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

September 14, 1899.

On reading and filing the application of the Dunkirk and Point Gratiot Traction Company, for a certificate under section 59 of the Railroad Law, by Lester F. Stearns, president, verified August 15, 1899, the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application in the city of Albany, on August 25, 1899, Lester F. Stearns appearing for the applicant and J. H. Stevens for the Erie Railroad Company, in opposition, and after further hearing in the matter in the city of Albany, on September 14, 1899, Lester F. Stearns appearing for the applicant, and H. A. Taylor appearing for the Erie Railroad Company, which company withdrew its opposition, and after reading and filing the report of the inspector of this Board, of his inspection of the route of the proposed railroad, and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company and that public convenience and a necessity require the construction of said railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the applicant company, the Dunkirk and Point Gratiot Traction Company, and that public convenience and a necessity require the construction of the applicant company's railroad, as proposed in its articles of association and as shown upon said map.

XVI.

IN THE MATTER OF THE APPLICATION OF THE NASSAU BELT LINE TRACTION COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

October 5, 1899.

On reading and filing the application of the Nassau Belt Line Traction Company, for a certificate under section 59 of the Railroad Law, by Fred Ingraham, treasurer, dated April 28, 1899,

the articles of association of said company and due proof of the publication thereof, due proof of the publication of notice of hearing before this Board, a map showing the proposed route of said railroad, and after a public hearing on said application in the city of New York, on May 16, 1899, Fred Ingraham appearing for said application, and J. A. MacElhinny, in opposition thereto, and M. L. Bruce for property owners, in opposition to the building of a railroad on Greenwich street in the village of Hempstead; and after reading and filing the report of the electrical expert of this Board, of his inspection of the proposed route of said company; and after reading and filing a stipulation from the applicant, to the following effect: "The Nassau Belt Line Traction Company hereby stipulates and binds itself to operate its lines by electric motive power only;" and it appearing that the conditions of section 59 of the Railroad Law have been complied with by said company, and that public convenience and a necessity require the construction of its railroad, it is

Ordered, That said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with by the said company, the Nassau Belt Line Traction Company, and that public convenience and a necessity require the construction of said company's railroad.

Inquiry as to Application Under Section 59 of the Railroad Law.

I.

CHATHAM AND LEBANON VALLEY RAILROAD,
President's Office, 11 John St.,

NEW YORK, October 31, 1899.

Board of Railroad Commissioners of the State of New York, Albany, N. Y.:

GENTLEMEN.—The Chatham and Lebanon Valley Railroad, as appears by its certificate of incorporation, was fully incorporated for the purpose of maintaining and operating a railroad already built. Some question has arisen as to whether, in view of our articles of incorporation, a certificate of your Commission is required under the provisions of section 59 of the Railroad Law. The road acquired by the present company having been in operation prior to its acquisition by us, we are advised by counsel that the certificate mentioned in section 59 is not necessary. We deem it best, however, to have the expression of your Honorable Board upon this question. The question therefore submitted is: Does the Chatham and Lebanon Valley Railroad require a certificate under section 59?

An early reply will oblige,

Yours respectfully,

CHATHAM AND LEBANON VALLEY R. R.

WM. C. ROBERTS, *President.*

ALBANY, November 23, 1899.

WILLIAM C. ROBERTS, Esq., *President Chatham & Lebanon Valley Railroad Co., No. 11 John St., Manhattan, New York City:*

DEAR SIR.—Your letter of the 31st ult., asking if it is necessary for the Chatham & Lebanon Valley Railroad Company to procure a certificate under section 59 of the Railroad Law, has been received.

It appearing that said company was formed to operate a railroad already constructed, the Board holds that it is not necessary to procure a certificate under section 59 of the Railroad Law.

By the Board,

JOHN S. KENYON,

Secretary.

Decisions of Courts in Questions Arising Under Section 59 of the Railroad Law.

I.

SUPREME COURT—FOURTH APPELLATE DIVISION.

APPLICATION OF THE AUBURN AND WESTERN RAILWAY COMPANY TO THE APPELLATE DIVISION OF THE SUPREME COURT FOR THE CERTIFICATE PROVIDED FOR BY SECTION 59 OF THE GENERAL RAILROAD LAW, UPON A CERTIFIED COPY OF ALL MAPS AND PAPERS ON FILE IN THE OFFICE OF THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK, IN THE MATTER OF THE APPLICATION OF SAID RAILWAY COMPANY FOR SUCH CERTIFICATE; SAID BOARD HAVING BY AN ORDER MADE AT THE CAPITOL, IN THE CITY OF ALBANY, ON THE 8TH DAY OF JUNE, 1897, DENIED THE APPLICATION OF SAID RAILWAY COMPANY FOR SUCH CERTIFICATE.

Per Curriam:

The denial by the Board of Railroad Commissioners of the petitioner's application was the exercise of a power largely discretionary in its character which the Legislature of this State had vested in a body created for a special purpose and composed of men peculiarly qualified by experience to deal with the vexatious problems arising out of the over increasing demand for better and more adequate means of transportation.

And while this court has been expressly empowered to review the action of the Commissioners in refusing to grant such a certificate as was asked for in this case, yet it has held in every instance where a review has been had, that for the reason above stated their determination must be treated in the same manner as that of any other subordinate judicial tribunal whose judgments are subject to review, which is equivalent to saying that their conclusion must be respected and sustained unless it be made clearly and affirmatively to appear that it was founded upon erroneous legal principles, or that in reaching the same the Commissioners proceeded contrary to the clear weight of evidence; or that they abused the discretion vested in them and arbitrarily refused to issue the certificate asked for.

Matter of New Hamburg and Poughkeepsie R. R. Co., 76 Hun, 76; matter of Amsterdam, J. and G. R. R. Co., 86 id., 578; matter of Depew and S. W. R. R. Co., 92 id., 406.

In the light of the rule just adverted to we have carefully examined the record in this proceeding with a view to determining to what extent the petitioner has sustained the burden resting upon it of showing affirmatively that the determination of the Commissioners is in any respect erroneous.

From this record it appears that the petitioning corporation was organized in July, 1896, under the name of the Auburn and Western Railway Company, for the purpose of constructing and operating by electricity a street surface railroad, which should extend from the west line of the city of Auburn in the county of Cayuga, to the east line of the town of Seneca Falls, in the county of Seneca. It further appears that it was designed by the incorporators, that when thus constructed, the road should connect with the Auburn City Railroad Company at its eastern terminus and at its western terminus with another surface railroad running from Cayuga lake to the city of Geneva, in Ontario county, thus forming a continuous line of road operated by the trolley system from Auburn to Geneva, a distance of about twenty-five miles.

The capital stock of the petitioner's company is \$300,000, of which sum \$11,000 only had been subscribed when this proceeding was commenced; and of this amount, Mr. Clifford D. Beebe, of Syracuse, appears to be the owner of 96 shares, the par value of which is \$9,600. It is also made to appear that if the petitioner's road is constructed upon the route contemplated, it will, in connection with the Geneva road, parallel that portion of the New York Central and Hudson River Railroad known as the "Auburn Branch" for the entire distance between Auburn and Geneva; that it will also parallel a branch of the Lehigh Valley Railroad from Auburn to a point on Cayuga lake, midway between the villages of Cayuga and Union Springs, and that it will necessarily cross each of these roads at grade between Auburn and Cayuga.

Notwithstanding the facilities for transportation which these two lines of railroad afford,—and it appears that there are thirteen passenger trains passing over the New York Central and Hudson River Railroad and six over the Lehigh Valley Railroad daily—it is insisted that they are wholly inadequate, and that consequently public convenience and a necessity require the completion of the competing line which the petitioner proposes to construct.

To support this contention, witnesses were called from the city of Auburn and from the various localities and villages inter-

sected by the proposed road and its connections, all of whom testified unhesitatingly that in their opinion it would prove a great convenience to the public if better railroad facilities were furnished. This doubtless was not only the expression of an honest opinion, but it was one which to a certain extent was founded in fact. To illustrate: One gentleman residing in Auburn said that if the road were in operation it would enable him to reach his cottage upon the shore of Cayuga lake in the afternoon, and return in the morning before business hours, which he could not do under existing circumstances. Another, residing at Aurelius, a small hamlet about five miles west of Auburn, said he would be glad to avail himself of the proposed road as a means of sending his children to school at Auburn; while another, residing at Cayuga, thought it would afford him a better opportunity of transacting business at Auburn than was the case at present.

To each of these witnesses, as well as to many others similarly situated, it would undoubtedly prove more convenient if they could be furnished with additional facilities for transportation. But what would prove convenient to them personally might fall far short of amounting to a public necessity; and over and against the reasons they give for the opinions which they expressed, stand out certain pregnant facts concerning which there is haply no controversy whatever. To one or two of these brief allusions will be made.

The city of Auburn contains a population of about thirty thousand souls, and the entire population of the territory adjoining the route of this proposed road, from Auburn to its western terminus, including the hamlet of Aurelius and the village of Cayuga, does not exceed two thousand.

It appears that during the year 1896, the total number of passengers carried between Auburn and Cayuga on the New York Central and Hudson River Railroad was 26,460, and between Auburn and Aurelius by the same road 3,644, or a total of about thirty thousand persons. Certainly this limited amount of patronage does not lend encouragement to persons who are asked to invest their means in the new enterprise, especially when it is distributed between two or more competing lines. But it is said that there is a pleasure resort at the western terminus of the proposed road which draws many people to it during the summer season, and that if the road were available for that purpose many large excursion parties might be induced to visit that spot. Summer resorts, however, are, at the best, too ephemeral to furnish a satisfactory basis for declaring a railroad which will accommodate its patrons, by reason of that fact, a public neces-

sity; and the patronage from this source would necessarily be limited to a small portion of the year. Again, we are told that increased facilities for transportation invariably result in increased business, and that the history of nearly every electric road demonstrates that the mere fact of its existence has a tendency to draw to it patronage. This suggestion is not altogether without merit, and it is perhaps not unreasonable to assume that if the projected road were completed along the proposed route and were well equipped and properly managed, very many more people would use it as a means of conveyance than now use the steam railroads running along virtually the same route. But with this much conceded, the fact still remains, that under the most favorable circumstances which can possibly be imagined, the population of the district to be traversed by the petitioner's road is insufficient to sustain these different lines, and the probability is that if the local patronage thereof were to be distributed between the three, it would be found that no profit resulted therefrom to either.

It was said by the learned justice who wrote the opinion in the case of Amsterdam, J. & G. R. R. Co. (*supra*) that it was the evident purpose of the Legislature in adopting the section under which this proceeding was brought "to restrict the building of roads not actually needed in order to protect not only existing railroads, but also citizens from investing in alluring but profitless enterprises." And one has but to examine in the most cursory manner the reported cases in this State to discover that not a few of them arise out of disappointed expectations which furnish the principal foundation for enterprises of this character, and which when first undertaken were equally as alluring and full of promise to the investors as the one we are now considering.

It is the undoubted policy of the law to foster and encourage every legitimate enterprise which is at all likely to prove advantageous to the general public; but at the same time, it is the obvious duty of those upon whom the responsibility rests to exercise a wise discretion in these matters, to the end that one enterprise, however alluring it may seem, shall not be aided and encouraged at the expense of another which is perhaps equally deserving.

In the present instance this discretionary power has been exercised by the Railroad Commissioners in a manner to commend itself to our approval, and for that reason we feel constrained to refuse the certificate asked for from this court.

Application denied, with costs.

All concur, except Follett, and Ward, J. J., not voting.

II.

IN THE MATTER OF THE APPLICATION OF THE RIVERHEAD, QUOGUE AND SOUTHAMPTON RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

Application by the Riverhead, Quogue and Southampton Railroad Company for the certificate required by section 59 of the Railroad Law, the Board of Railroad Commissioners having refused the application made to it for such certificate.

HATCH, J.: This application was made by the railroad company for a certificate as required by section 59 of the Railroad Law (chapter 565 of the Laws of 1890, as amended by chapter 676 of the Laws of 1892, as amended by chapter 545 of the Laws of 1895). The Commissioners denied the application upon two grounds: First, "That the application is as to the second articles of association, which the Board does not believe were lawfully amended;" and, second, "That the route cannot be changed at this time under the provisions of section 13 of the Railroad Law." The Board declined to pass upon the route as stated in the original articles of association, upon the ground that no application was pending or proof given as to any proposed route; and it further declined to pass upon the question as to whether public convenience and necessity required the construction of the railroad between Riverhead and West Hampton, based upon the ground that the applicant was not qualified to receive a certificate for such route. The correctness of this action by the Board of Railroad Commissioners is to be determined by the fact as to whether the proposed railroad company was legally incorporated, and has complied with the law by taking such steps as entitled it to a certificate. The merits of the application are not now before us, and were in nowise considered by the Board of Railroad Commissioners. So far as the facts are concerned, it appears that the original articles of association, which seem to be regular in form, were dated on the 12th day of April, 1897, and were filed in the office of the Secretary of State on the 19th day of the same month, and a duplicate original of said articles was filed in the office of the clerk of Suffolk county, that being the county in which it was proposed to build and operate the said railroad.

These articles of association, among other things, provided for the construction of a railroad from points in the town of Riverhead to points in the village of Quogue, all within the county of Suffolk; and in the description of the streets, avenues, highways and private property in and upon which said railroad was pro-

posed to be constructed, it was described as beginning at a point on Osborne avenue in the town of Riverhead and thence along a particular line to Flanders, and "thence southerly along said highway leading from Flanders to Quogue to the depot at Quogue; thence southwesterly along a highway from said depot to and through Quogue and on said highway leading 'from Quogue to the ocean.'" Subsequently, at a meeting of the board of directors of the applicant, more than two-thirds of the directors being present, a resolution was duly adopted by such board, changing the proposed route of said railroad so as to have its terminus in the village of West Hampton instead of the village of Quogue; the change in the description of the proposed route being, "thence southerly along the highway leading from Riverhead to West Hampton to the depot at West Hampton; thence southerly from said depot to the crossroad at R. W. Robinson's house and thence southerly to the ocean." These amended articles of incorporation were filed in the office of the Secretary of State, and also in the county clerk's office of the county of Suffolk. No other papers were filed in either place under the last-named articles, and the railroad company made its application to the Board of Railroad Commissioners for the certificate required by section 59, solely upon these articles.

The proposed amended articles of incorporation are drawn pursuant to section 7 of the General Corporation Law (chapter 563 of the Laws of 1890, as amended by chapter 687 of the Laws of 1892), which provides, among other things, that "if in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation, any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the corporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter." The amended articles of incorporation recite, "for the purpose of correcting an informality and defect in the original certificate of incorporation of said corporation, consisting of the omission to particularly state, define and describe a portion of the route of said road as well as the terminus in the town of West Hampton, do hereby make and file this amended certificate, pursuant to the General Corporation Law of the State of New York, section 7, and for such purpose do certify and declare as follows:" It is quite evident from an examination of the proposed route of this railroad that there existed no defect, informality or mistake therein. The description of the route of the road was over a certain specified line and

roads beginning in the town of Riverhead and ending in the village of Quogue. The amended articles accomplished, what was evidently intended, a change of the proposed route from Hallett's mill, a place upon the line, to the village of West Hampton. It is, therefore, plain that the section under which the railroad company sought to change its articles by changing a part of its route, does not confer authority so to do. The purpose and object of this section are plain, as its language indicates, namely, to correct mistakes, informalities and defects which may exist in the articles of incorporation. It has no application to an amendment of articles which seek to change the route of the railroad.

We are confirmed in this view by the provisions of section 13 of the General Railroad Law (Laws of 1890, chapter 565, as amended by Laws of 1897, chapter 235), which in terms provide for a change of route, grade or terminus, by authorizing any railroad corporation, except elevated railways, by a vote of two-thirds of all its directors, to alter or change the route or any part of the route of its road or its termini, or locate such route or any part thereof or its termini in a county adjoining any county named in its certificate of incorporation, if it shall appear that the line can be improved thereby, upon making and filing in the clerk's office of the proper county a survey, map and certificate of such alteration or change. This corporation, while having ample powers to act under this provision, has not assumed so to do, but has assumed to act under a provision of law having no application to its case. It might be possible to hold the amended articles of incorporation a sufficient compliance with section 13 of the General Railroad Law, if what was done were a substantial compliance with its terms, even though it was assumed to be taken under the General Corporation Law, but the difficulty is that in order to change its route, under the provisions of section 13, it is required to file in the clerk's office of the county the certificate of change, together with a survey and map. This last requirement is wholly lacking, as the only paper filed in the clerk's office of Suffolk county was the amended articles of incorporation as hereinabove specified. This might be construed as constituting a certificate of a change of route, but it cannot be held to answer for a survey and map which the statute requires. The filing of a survey and map is as essential a part of the proceedings as are the articles of incorporation. (*Matter of Citizens' Waterworks Co.*, 32 App. Div. 54.) This failure upon the part of the railroad company to comply with the law makes the steps taken of no force and effect. Such acts constitute conditions precedent, and must be complied with. (*Farnham v. Benedict*, 107 N. Y. 159.) This applies to an applica-

tion for a certificate to the Board of Railroad Commissioners. (Matter of Kings, Q. and S. R. R. Co., 6 App. Div. 241.)

In Matter of N. Y., L. & W. R. Co. (88 N. Y., 279), relied upon by the appellant, this requirement is recognized. The language of the court in that case was, "The only prerequisite to the exercise of the authority to change the route was a vote of two-thirds of the directors, sanctioning the new location, followed by the filing of the survey, etc." So far as the name of the proposed railroad is concerned, we think no valid objection can be raised, nor do we think that it is within the province of the Board of Railroad Commissioners to inquire into this matter, at least so far as to make it the basis of the denial of a certificate in a proper case. It is quite likely that upon the merits the railroad company can make a case for the issuance of a certificate, but it cannot complain of the refusal of the Board until it has complied with the law.

It follows that the application should be denied.

All concurred, except Bartlett, J., taking no part.

Application denied, with ten dollars costs and disbursements.

III.

SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT.

THE PEOPLE OF THE STATE OF NEW YORK EX REL. MARY ANNA STEWARD AND OTHERS, RELATORS, *v.* THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK AND OTHERS, RESPONDENTS.

Certiorari issued out of the Supreme Court and attested on the 5th day of October, 1898, directed to the Board of Railroad Commissioners of the State of New York and the individuals composing the said board, commanding them to certify and return to the office of the clerk of the county of Albany the proceedings had before such board upon an application made in the name of the Goshen Railroad Company for a certificate under section 59 of the Railroad Law.

HERRICK, J.: If we treat the Goshen Railroad Company as an independent railroad corporation, in all respects separate and apart from the Erie Railroad Company, I can see no reason for its existence, and no public necessity or convenience to be met or subserved by it.

It is less than three miles in length, there is no local traffic, either passenger or freight to support or maintain it, and there is no pretence that it intends to do any local business—and as an independent road, of course it is absurd to say that there is apart from any other railroad, any through traffic to provide for.

Of course these considerations are not in all cases conclusive, a road may not expect any local traffic or any through traffic of its own, but yet may be the connecting link between other systems of roads from which it derives its business, and where it would serve as a convenience and necessity, as in the case of the Depew and Southwestern Railroad Company, 92 Hun, 409.

But that was a widely different case from the one before us. That road served as a connecting link between nine separate and distinct railroad corporations. To quote from the opinion of the court in that case, "The convenience and necessity of a railroad from Depew to Blasdell is not questioned, and for the purpose of facilitating the transportation of freight both east and west, between New York and Chicago, its importance is apparent. It will shorten the distance between those cities about six miles, and the time required in the transportation of freight about that number of hours, and will obviate the necessity and inconvenience of taking freight cars through the city of Buffalo to interchange with connecting roads. There are five railroads passing through Blasdell to be brought into more immediate or direct connection with four at Depew by the proposed line between those two places."

The Goshen Railroad serves no such purpose; it will take the cars of the Erie Railroad Company from the tracks of the Erie Railroad at one point and deliver them back again to the Erie Railroad Company at another point not quite three miles distant. The difference in distance between the two points, over the tracks of the Erie Railroad as now laid, and over the proposed route of the Goshen Railroad, is about three thousand feet.

It cannot be considered as a tributary, or feeder, to the Erie Road; it brings nothing to the Erie Road except what it receives from it, it takes nothing from it except what it immediately returns to it; instead of a feeder or tributary, it is rather a parasite.

As a matter of fact it is practically a switch of the Erie Road, and the only office that it performs is that of a switch or additional track of the Erie Railroad Company, and I think that under all the circumstances, it must be considered in conjunction with, and as a part of the Erie Railroad.

Its board of directors is composed of the officers of the Erie Railroad Company; its president, who is likewise the president of the Erie Railroad Company, says in an affidavit placed before the Railroad Commissioners, that, "The construction of said railroad, as proposed, is required for the safe, economic and proper

conduct of the business of the railroad of the Erie Railroad System."

The expert of the Railroad Commissioners, in his report says, "This road is to be constructed by or in the interest of the Erie Railroad Company, in order to avoid the numerous grade crossings, excessive grades and curvature on its present line; all freight trains are, at present, obliged to have the assistance of pushing engines through this village. It also saves one-half of a mile in distance; the road is in no way competitive."

Now while all these things sought to be accomplished may be convenient and necessary, not only for the Erie Railroad Company, but even for the general public, still it does not follow that the certificate required by section 59 of the Railroad Law should be granted. The requirements of that section mean something more than that it is necessary and convenient to lay railroad tracks between two given points; if that was all that was meant, every time that the increasing business of a railroad company demanded the laying of an additional track, or the building of a turn-out or switch, such necessity would be the justification for the organization of a railroad company to build such additional track, switch or turn-out, and the issuance to it of a certificate of public convenience and necessity.

One of the reasons heretofore given for the enactment of the law that before a railroad corporation can exercise the power conferred upon such corporation or begin the construction of its road, it must receive a certificate of public necessity and convenience, was, to prevent the organization and operation of railroad corporations, among others "by those seeking by threats of destructive competition to levy tribute upon existing roads." To that perhaps it is well to add, also to prevent, or rather remove the temptations to, the officers of existing roads to build others that would be parasites upon existing roads, by doing the business for their own profit, that should be done by and for the profit of such existing road of which they are the officers.

The good to be accomplished, and the evils to be rectified by the erection of this road can be accomplished by the Erie Railroad itself, and that without the operation of a separate and distinct corporation. By so doing, the provisions of section 13 will not be evaded, and no portion of its profits will be expended in carrying its traffic over the lines of another road between two points on its own line. The decision of the Railroad Commissioners in granting the certificate is reviewable by certiorari, *People ex rel. Loughran et al. v. Railroad Commissioners*, 158 N. Y., 421. The order of the Railroad Commissioners should therefore be reversed.

All concur, except Merwin, J., dissenting and Landon, J., not voting.

MERWIN, J.: I dissent. The Railroad Commissioners after taking testimony and making a personal examination reached the conclusion that public convenience and a necessity require the construction of the applicant's railroad. I see no good reason for disturbing in this proceeding that conclusion. It is suggested that the rights of the municipal corporation of Goshen, or the rights of the Erie Railroad or its stockholders may be injuriously affected. No issue is however presented by any of those parties. They are not here. It is doubtful whether the relators are in a position to review the determination of the Commissioners. The statute does not require notice to be given to them of the hearing before the Commissioners, and it is not apparent how their legal rights are affected by the action of the Commissioners. If the proposed route is not right, the relators have a remedy by statute. So they have if the enterprise is not a public use within the meaning of the law. (Code Civ. Proc., section 3360.)

Matter of Niagara Falls & W. R. Co., 108 N. Y., 375; Matter of Split Rock C. R. Co., 128 N. Y., 408.

IV.

COURT OF APPEALS.

THE PEOPLE OF THE STATE OF NEW YORK EX REL. MARY ANNA STEWARD ET AL., RESPONDENTS, *v.* THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK AND ASHLEY W. COLE, FRANK M. BAKER AND GEORGE W. DUNN, BEING THE MEMBERS THEREOF, AND THE GOSHEN RAILROAD COMPANY, APPELLANTS.

Appeal from an order of the Appellate Division of the Supreme Court in the third judicial department, entered May 22, 1899, reversing on certiorari a determination of the Board of Railroad Commissioners granting the application of the Goshen Railroad Company for a certificate of public convenience and a necessity, under section 59 of the Railroad Law (chapter 565 of the Laws of 1890, as amended by chapter 676 of the Laws of 1892 and chapter 545 of the Laws of 1895).

The facts, so far as material, are stated in the opinions.

PARKER, Ch. J.: The Goshen Railroad Company, having performed the preliminary requirements of the statute, applied to the Railroad Commissioners for the certificate authorized by section 59 of the Railroad Law; the Railroad Commissioners inspected the location of the proposed new road, and in pursuance of notice duly given a public hearing was granted to enable those of the public who were opposed to the granting of the certificate to

appear and present their reasons for their opposition; upon said hearing the relators appeared in person and by counsel and produced witnesses who were duly sworn by the Railroad Commissioners, and thereupon gave testimony in opposition to the claim of the railroad company that the building of the railroad was a work of public convenience and a necessity; later on the Railroad Commissioners issued the certificate prayed for, whereupon the relators applied for a writ of certiorari to review such determination on the part of the Railroad Commissioners, and the same having been allowed by the Special Term, and the Goshen Railroad Company brought in as a party, a hearing was had in due course in the Appellate Division, which resulted in a decision by that court reversing and annulling the determination of the Railroad Commissioners. The Goshen Railroad Company on this appeal taken from the order, urges that this court should hold that the Appellate Division was without authority to review such determination; that the statute confers upon the Railroad Commissioners an important duty which it prefers to call administrative rather than judicial, and which it insists is subject to no review by the courts. The issuing of a common-law writ of certiorari to review the judicial determinations of inferior judicial tribunals and officers acting judicially under authority of statute, to correct errors of law affecting property rights of the parties, has for a long time formed a part of our judicial procedure. (*Starr v. Trustees of Rochester*, 6 Wend. 564; *People ex rel. Loughran v. Railroad Commissioners*, 158 N. Y. 421, and cases cited.) Counsel has, therefore, found it necessary to call the duty enjoined upon the Railroad Commissioners by section 59 of the Railroad Law something else than a judicial duty in order to obtain even the suggestion of a foundation upon which to construct an argument intended to convince the mind that such a determination as this is not reviewable by certiorari. But it is clear that if the duty enjoined upon the Board of Railroad Commissioners by this section calls upon them to decide some question of fact every time there is an application made to them for the issuing of the certificate authorized by it, then in the making of that decision it acts judicially, notwithstanding there may be closely interwoven with it certain administrative or ministerial functions that must also be exercised. (*People ex rel. Babylon R. R. Co. v. Railroad Commissioners*, 32 App. Div. 179; 158 N. Y. 711.) In that case the certiorari was issued for the purpose of reviewing the action of the Board of Railroad Commissioners in authorizing a change of motive power, under section 100 of the Railroad Law, and in the course of the opinion by Mr. Justice Landon, which expressed the views of both appellate tribunals, it was said: "It is a part of our State system to commit

many governmental powers, involving judicial, executive and ministerial functions, to a single officer, or a board or commission, the exercise of the executive or ministerial duty being in some cases dependent upon the exercise of the judicial function. Our Constitution, unlike that of the United States, does not commit the whole judicial power to the courts in the first instance, hence our system of review by certiorari of the determination of a body or officer."

Now, the section before us prohibits a railroad corporation from exercising any of the powers conferred by law upon such a corporation until the Board of Railroad Commissioners shall certify that certain specific conditions have been complied with, and also that "public convenience and a necessity" require the construction of such railroad as proposed in said articles of association. The granting of such a certificate cannot be treated as an idle ceremony, required by the Legislature as a mere matter of form, for the Board of Railroad Commissioners, in order to certify, must first determine what the fact is, and it must decide that the public convenience and a necessity require the construction of the proposed railroad before it can certify that such is the fact. To enable it to pass upon that question of fact it must be in possession of the necessary evidence upon which to base a decision, and in order that the people may have an opportunity to be heard and be permitted to produce evidence in opposition to the railroad's claim of a necessity, the statute requires the publication of the articles of association for three weeks in each county in which the road is proposed to be located, and further requires that the certificate shall be applied for within six months after the completion of such publication. Upon such hearing the Commissioners have the right to administer oaths to witnesses, to authorize their examination and cross examination by counsel, and while not bound by the technical rules governing the admission of evidence in actions and proceedings pending before the courts, the Commissioners are authorized to, and do receive oral testimony, written and printed documents, and affidavits which in their opinion tend to throw light upon the question which in the end they are to pass upon, namely, whether "public convenience and a necessity" require the construction of the proposed railroad. This determination is one of great importance from a public point of view, and so the statute requires that it shall be passed upon at the very threshold of the corporation's existence, for thus is prevented, if the railroad ought not to be built, a waste of the money contributed by the stockholders in proceedings which may come to naught should some owner of land through which the railroad is intended to

pass, succeed in establishing, in condemnation proceedings, that there is no necessity for the building of the railroad, as in *Matter of Niagara Falls and Whirlpool Railway Company* (108 N. Y. 375).

It is not my purpose to attempt to present all of the arguments that can readily be marshalled to establish that the determination made by the Railroad Commissioners that a certificate shall issue as called for by section 59, constitutes a judicial determination of great importance, for, as I view it, that question was settled in this court in *People ex rel. Loughran v. Railroad Commissioners* (supra). It is true that in that case another section of the Railroad Law was involved, but every argument presented by the opinion to prove that the power under consideration in that case was a judicial power is alike applicable to the power conferred upon the Commissioners by section 59. In that case the statute provided that no railroad station "shall be discontinued without the consent of the Board of Railroad Commissioners first had and obtained." In this case it provides that no railroad corporation shall exercise the powers conferred by law "until the Board of Railroad Commissioners shall certify * * * that public convenience and a necessity require the construction of said railroad as proposed in the said articles of association." The reasoning which we deemed conclusive in that case is equally applicable to this one, and need not be repeated here. The attempt that has been made to distinguish the two cases is not rested upon the claim that there is any difference in the character of the power exercised by the Railroad Commissioners, nor that in the one case, any more than in the other, the determination is not the final determination in that proceeding; but it is urged that in the *Loughran* case the relator residents had no other remedy than a review by certiorari, while in this case the relator residents will have a further remedy when proceedings shall have been instituted to acquire their lands by condemnation. But it will be observed that this claim relates to the parties and not to the remedy. That argument does not deny that such a determination by the Railroad Commissioners is reviewable by certiorari, but challenges merely the right of the owners of lands affected to sue out the writ, because it is said they have another remedy.

The right of the Appellate Division, therefore, to review such a determination by the Railroad Commissioners as is involved in this case, seems to be settled in terms by the *Loughran* case, as it is in principle by a long line of earlier cases, and this brings us to a consideration of the claim that these relators are not in a position to invoke a review of the determination by the

courts. It is true that they are residents of Goshen, as the relators in the Loughran case were residents of Kingston, but it is urged that the particular residents who are relators in this case also happen to own land through which the railroad will pass, if constructed, and, therefore, will have an opportunity in that proceeding to try out the question of public convenience and necessity, and hence this case is within the prohibition of section 2122 of the Code of Civil Procedure, which forbids a review by certiorari of a determination which does not finally determine the rights of the parties with respect to the matter to be reviewed. There are several answers to this contention, but the one which I prefer to make takes issue with the assertion that these relators have still the right to have tried out and decided in proceedings *in invitum* the question whether this railroad, when constructed, will subserve a public use. Prior to the enactment of chapter 676 of the Laws of 1892, authorizing the making of a certificate of necessity by the Railroad Commissioners, it was the undoubted right of the landowner, in condemnation proceedings, to defend on the ground that the taking of private property for the purposes of the railroad petitioner was not a taking for public use. (Matter of Niagara Falls and Whirlpool Ry. Co., *supra*.) This was not one property owner's right, but it was every property owner's right along the line of the railroad, while on the other hand other property owners living close to the line of the railroad, and perhaps with property so situated as to cause them to suffer far greater damage than their neighbors through whose land the railroad passed, were given no opportunity whatever to present for judicial determination the question whether the public use required the building of the railroad. Experience had shown that there were other reasons why this important question of the public convenience and necessity of a proposed railroad should be tried out and decided at the very beginning of the career of the corporation. Railroad construction was often threatened, and sometimes undertaken, with the view of securing for its promoters tribute from a railroad corporation thus threatened with competition. And again, the interests of the investors in railroad enterprises seemed to require that the promoters of such enterprises should not be permitted to undertake the construction of such a work where it was clear that public convenience and necessity did not require it. These and other reasons undoubtedly moved the Legislature to provide a method by which the question of public convenience and necessity should be judicially determined at the very beginning of the corporate life of a railroad corporation, and to accomplish that result it conferred upon

the Board of Railroad Commissioners the power and the duty to hear and decide this question in all cases. The machinery provided by the statute requires the publication of the articles of association in each county through which the proposed railroad is to pass, so that every owner of lands to be affected, as well as the public generally, may have notice of the fact that a tribunal, created by the State for that purpose, among others, is about to determine, as against them, whether public convenience and a necessity require the construction of the proposed railroad. Reasonable regulations for the working out of the scheme have been adopted by the Railroad Commissioners, and an opportunity is always given, as in this case, to the land owners and others interested to challenge the claim of the corporation that the construction of its railroad is a public convenience and a necessity. The fact that the question to be decided is a judicial one insures a right of review in the courts by a writ of certiorari, and thus, by a simple method of procedure, the legality of the enterprise and the public need for it are settled in one proceeding, instead of being the subjects of controversy in many, and all question is put at rest at a very early stage of the corporate existence.

If the views expressed are well founded, it follows that the determination of the Railroad Commissioners finally determined the rights of these parties as to the question of public convenience and necessity for the railroad, and, therefore, section 2122 of the Code of Civil Procedure does not affect them.

At the Appellate Division the Attorney-General appeared by one of his deputies and asked to be heard on behalf of the Board of Railroad Commissioners. The court held that the Board had no right to be heard by counsel, but permission was given to the Attorney-General to address the court on behalf of the people, and to the Goshen Railroad Company to use the Attorney-General's brief, if so desired, and it was used. The Board of Railroad Commissioners, by the Attorney-General, appealed from such order, as did the Goshen Railroad Company, and all now insist that the denial of the right of such Commissioners to be heard by the Attorney-General was error for which the order should be reversed. It is the general rule that a court or board exercising judicial functions by permission of some statute, has no interest in maintaining its determination, and, therefore, can neither appeal from an order of the court reversing the proceedings, nor be heard on the appeal. (*People ex rel. Breslin v. Lawrence*, 107 N. Y. 607; *People ex rel. Burnham v. Jones*, 110 N. Y. 509.) In the latter case, which furnishes an exception to the general rule, it was held that the land commissioners were

in a legal sense aggrieved by the reversal of their resolution directing that a patent for certain lands under water issue to the Bartholomay Brewing Company, and, therefore, it was their duty to defend their decision. The reason assigned for the decision was that the land commissioners having determined that under the statute they ought to convey the land to the brewing company, it was their duty to do so, but so long as the order of reversal stood they were prevented from exercising the power of conveying the lands, and, hence, the decision stood in the way of a future discharge of that which they deemed a public duty. This case is not within the exception created by the decision in Burnham's case. The Board of Railroad Commissioners have no further duties to perform in the premises. Their duty ended with the issue of the certificate, which the Appellate Division reversed and annulled. Having made the determination that the public convenience and a necessity required the construction of the Goshen Railroad, they had no other or greater interest in its being sustained than has a court in having an order or judgment made by it upheld.

Our examination of the record leads to the conclusion that upon the merits the order of the Appellate Division is right, and should be affirmed.

HAIGHT, J. (dissenting). The Erie Railroad Company is a corporation operating a railroad between New York, Buffalo, Chicago, and other points in the west. Its main line runs through the village of Goshen, crossing numerous streets at the surface upon a steep grade with sharp curves, and its heavily laden trains require the services of an additional engine in order to pass through the village. In order to save time and expense in the running of the trains and to enable the company to compete with other trunk lines from the west, the officers of the Erie Company devised a plan for a cut-off road running partly outside of the village and partly within the corporate limits, but beyond the thickly settled portions, of about two and three-quarters miles in length over which they could run their through freight trains, thereby relieving the village of the noise, smoke and delay at street crossings occasioned by the taking of trains through the village, and at the same time save to the company the expenses of maintaining a pusher engine, as well as considerable time. For the purpose of accomplishing this result, the Erie officials organized a new corporation under the name of Goshen Railroad Company, designed, as they say, as an auxiliary company to the Erie for the purpose of building the proposed new road. The reason for this, as given by their counsel,

is, that the Erie road is mortgaged to the full extent of its value and that company was unable to raise the necessary money to build the new road; that the Goshen Company could mortgage the new road separate from the Erie's and thereby raise the necessary money for its construction, and then rent it to the Erie Company for a sufficient sum to pay the interest on the mortgage.

The Goshen Railroad Company, having been organized and conformed to the preliminary requirements of the statute, applied to the Railroad Commissioners for a certificate required by section 59 of the Railroad Law. The Railroad Commissioners thereupon inspected the old road and the location of the proposed new road, and then, upon notice given, a public hearing was held for those opposing the granting of the certificate. Upon such hearing the relators appeared by counsel and produced witnesses and gave evidence in opposition to the claim of public necessity contended for by the railroad company. After hearing and considering the evidence, the Railroad Commissioners issued the certificate prayed for. The relators then applied for a writ of certiorari, and the same having been allowed, and the Goshen Railroad Company brought in as a party, the case was brought to a hearing in the Appellate Division and resulted in the order from which this appeal was taken.

We do not regard the fact as to whether the proposed road is a public convenience and necessity as properly before us; indeed, we do not understand that the Appellate Division has reversed upon the ground that the new road was not a public convenience and necessity. The prevailing opinion written seems to indicate that the court reached the conclusion that the Goshen corporation was unnecessary and not the proposed road; that the new corporation was considered to be a parasite on the old and that the Erie Company could construct its own cross-cut road and thereby secure all of the good to be accomplished and rectify all of the evils complained of. We shall not stop to consider all of the questions discussed, not even the question as to whether a new corporation was proper, or whether the commissioners had any jurisdiction to determine that question; for to our minds there are other questions which we think dispose of this case before reaching those alluded to.

Section 2127 of the Code of Civil Procedure provides that "An application for the writ must be made by, or in behalf of, a person aggrieved by the determination to be reviewed; must be founded upon an affidavit, or a verified petition, which may be accompanied by other written proof; and must show a proper case for the issuing of the writ."

Section 2122, so far as is material, provides that "Except as otherwise expressly prescribed by a statute, a writ of certiorari cannot be issued, in either of the following cases: 1. To review a determination which does not finally determine the rights of the parties, with respect to the matter to be reviewed."

It will at once be seen that a review by certiorari can only be had by a person aggrieved by the determination of the commissioners, and that it cannot be had by such a person, unless it finally determines his rights with respect to the matter to be reviewed.

The relators are the owners of lands through which a portion of the new road is proposed to be built. Section 59 of the Railroad Law was designed, as has been held, to prevent destructive competition and the levying of tribute upon existing roads, by requiring, as a condition precedent to the right to build, a certificate from the railroad commissioners of public necessity and convenience. No notice of the application for the certificate is required to be given to the owners of the lands through which the company design to construct its road. The statute does not specify the manner in which the commissioners shall determine the question; their usual practice is to inspect the proposed route, and then make public inquiry in the locality chiefly affected, and upon the information so derived, determine the question of public necessity and convenience. The landowners are not necessary parties to the proceedings, and none of their rights are affected. After the granting of the certificate, the landowners have left unimpaired all the rights and remedies given them by the Railroad Law; they may move to change the route, and in case condemnation proceedings are instituted, they may answer, putting in issue the validity of the petitioner's organization or that the road was for a public use or necessary for such use, and have those issues regularly tried and determined in a court of equity. (Code C. P. secs. 3360, 3365, 3367.) The contention on behalf of the relators, that the courts will be influenced in the determination of that issue by the certificate given by the commissioners, is hardly worthy of an answer. It is sufficient to say with reference thereto, that it is the duty of the courts to determine the question from the evidence produced upon the trial, in the same way other questions of fact are determined in the trial of other cases.

In *Matter of Niagara Falls and Whirlpool Railway Company* (108 N. Y. 375) it was held that a railroad corporation, seeking to take property in invitum for the purposes of its road, must be able to show, first, a legislative warrant, and second, if the right is challenged, that the particular scheme in which it is engaged is a railroad enterprise within the true meaning of that term,

or that the business it is organized to carry on is public, and that the taking of private property for its purposes is a taking for public use. That the question as to whether the uses are, in fact, public so as to justify such taking is a judicial one to be determined by the court. (See also, *In the Matter of Split Rock Cable Road Company*, 128 N. Y. 408.)

It will at once be seen that certiorari is not the remedy provided by the statute for the relators, and that a remedy has been provided in which the question raised by them upon this review may be tried out and determined in a proceeding in which they are necessary and proper parties. It will also be seen that a review by certiorari does not necessarily finally determine the rights of the relators, for if they are unsuccessful upon this review, they may again litigate the same question when their land is sought to be taken.

It is contended that the case of *People ex rel. Loughran v. Railroad Commissioners* (158 N. Y. 421) is an authority for the allowance of a writ in this case. We do not think so; that case arose under a very different statute. The railroad company sought permission from the Railroad Commissioners to abandon and remove a passenger depot in the city of Kingston. The relators in that case claim to have contributed money for the erection of the depot at that place. The Railroad Law gave them no other remedy. The consent of the commissioners to the removal of the depot was the end of the proceeding; all that remained to be done was to tear down the building, which the company was at liberty to do at any time after procuring the consent of the commissioners. This case is very different; after procuring the certificate, the company have to secure their right of way, and this has to be accomplished by another proceeding in court in which, as we have shown, the rights of all the parties must be determined by the courts, and not by a board of commissioners, unless the landowners see fit to make voluntary agreements with the railroad company.

Our conclusion is, that the writ of certiorari in this case was prohibited by the provisions of section 2122 of the Code of Civil Procedure. The order of the Appellate Division should be reversed and the writ dismissed, with costs.

Gray, O'Brien and Vann, JJ., concur with Parker, Ch. J., for affirmance; Bartlett and Martin, JJ., concur with Haight, J., for reversal.

Order affirmed.

V.

SUPREME COURT—APPELLATE DIVISION, THIRD DEPARTMENT.

CERTIORARI TO REVIEW THE DETERMINATION OF THE BOARD OF RAILROAD COMMISSIONERS GRANTING TO THE NEW YORK AND NORTH SHORE RAILROAD COMPANY A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

MERWIN, J. In December, 1897, the New York and North Shore Railway Company applied to the Board of Railroad Commissioners for a certificate, under section 59 of the Railroad Law, that public convenience and a necessity required the construction of the railroad it proposed to construct. In its petition to the Board for this purpose, it was among other things alleged that on or about the 13th March, 1897, it was duly incorporated under the laws of the State, and that it was organized to construct and operate a street surface railroad in the county of Queens; that since the filing of its articles of association it had determined to extend its lines of railway and for that purpose had duly made and filed in the proper offices certificates of certain specified extensions in the villages of Flushing, Whitestone and Jamaica, it being stated that the said extensions were intended to be changes of and substitutes for portions of the route set forth in the articles of association, to the extent of such extensions.

At the hearing, the relator claimed that the proposed road was not required by any public convenience or necessity; that the public was fully accommodated by the road of the relator and other roads then existing, and that the business of the relator would be seriously injured by the competition of the new enterprise. These were the main if not the only issues at the hearing.

A large amount of evidence was taken presenting the different aspects of the case and a personal inspection of the route was made by the Board. The relator in effect claims that the conclusion of the Board is not sustained by the evidence.

The applicant proposed to construct a street surface railroad to be operated by electricity. It would connect several localities of considerable importance between which there was then no direct railroad communication. It was for the most part within the city of New York as now constituted. There is a large population in the territory accommodated, and it is likely to largely increase. The evidence tended to show that an electric line such as was proposed, would afford means of local transportation which were not and could not well be furnished by the steam railroad of the relator, and that the traffic would be sufficient to

support the proposed road without materially affecting the traffic of the relator. The road of the relator and the proposed road were in some places nearly parallel, but that is not a conclusive circumstance.

Upon the facts the question for us to determine is whether the result reached by the Board is against the weight of evidence. The same rule, as to the preponderance of proof, is to be applied as upon an application to set aside a verdict in an action in the Supreme court. (Code, § 2140, subd. 5.)

The conclusion of the Board upon the facts should not, I think, be disturbed.

The relator further claims that the applicant had no lawful right or authority to construct or operate a street surface railroad over the route mentioned in its application, and therefore the certificate should not have been granted. The argument is that the applicant, prior to obtaining a certificate under section 59, had no right to file certificates of extensions, and that as to the route as modified by such extensions the railroad commissioners had no right to give their certificate. The certificate in fact given was "that public convenience and a necessity require the construction of the railroad of the New York and North Shore Railway Company."

The nature of these proposed extensions is to be considered. The original articles of association are not in the case. No question seems to have been made at the hearing about them or about the allegations, in the application, on the subject of the incorporation of the applicant or its extensions. In the memorandum and decision of the Board, which is attached to and is part of the return and is in the record before us, there is a reference to the point made by the relator as to the extensions, taken presumably in the brief which at the close of the evidence was authorized to be filed. In discussing that point, the Board say that it appears that the route upon which applicant proposes to build is somewhat changed from that stated in the articles of association; that these changes were occasioned by refusals of local authorities to consent to the construction of the railroad in certain places; that the applicant filed certificates of extension of its route to cover the changed portions; that the route is substantially the same as stated in the articles of association, the changes being from one street or place in the same direction and near together; that whatever convenience would be served by the construction of the railroad on the street or place mentioned in the articles is served in the new location, and the railroad is substantially as stated in the articles.

Assuming then, as I think we must, that the road with its proposed extensions is substantially as stated in the articles of

association, did the Board in granting the certificate err to the prejudice of the relator?

By section 59 of the Railroad Law, the Board before granting the certificate have a right to permit errors, omissions or defects to be supplied and corrected. A change in the route, not affecting substantially its character and made in order to obviate objections of the local authorities, might well be deemed a defect such as might be allowed to be corrected under the power above given, and such a change might be disregarded or approved if made after the filing of the articles and before the application to the Board. Acts, which the Board had a right to allow the applicant to do, should not be deemed to be within the limitation, prescribed by the same section, upon the exercise by the corporation of the powers conferred by law upon such corporations.

It is urged by the relator that the decision of this court in *People ex rel. Depew R. Co. v. Commissioners* 4 App. Div., 259, is applicable to this question. I think not. The question there involved was entirely different from the one presented by the situation in this case.

The fact that extensions were filed or proposed that did not substantially change the route, did not, I think, furnish a sufficient reason for denying the application.

No other question need be specially considered, and the determination of the Board should be confirmed.

Determination of the Board of Railroad Commissioners confirmed with costs.

All concur.

VI.

COURT OF APPEALS.

PEOPLE OF THE STATE OF NEW YORK EX REL. THE LONG ISLAND RAILROAD COMPANY, APPELLANT, *v.* THE BOARD OF RAILROAD COMMISSIONERS OF THE STATE OF NEW YORK ET AL., RESPONDENTS.

Appeal from an order of the Appellate Division of the Supreme Court in the third judicial department, entered August 2, 1899, dismissing a writ of certiorari issued to the respondents to review their action in granting a certificate under section 59 of the Railroad Law.

Appeal dismissed, with costs, on authority of *People ex rel. Coler v. Lord* (157 N. Y. 408).

All concur, except O'Brien, J., not voting.

VII.

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY
ET AL., PLAINTIFFS, v. THE SYRACUSE, LAKESIDE AND BALD-
WINSVILLE RAILROAD COMPANY, DEFENDANT.

(Supreme Court, Onondaga Special Term, July, 1899.)

Motion to vacate injunction restraining defendant from constructing its street surface railroad across plaintiffs' tracks.

Hiscock, J. I will briefly consider in the order presented all of the grounds urged by plaintiffs' counsel for maintaining this injunction:

First. It is urged and not disputed that defendant has not done the acts required by that provision of section 90 of the Railroad Law (Laws of 1890, chap. 565) which says that every street surface railroad corporation "before constructing any part of its road upon or through any private property described in its * * * statement, and before instituting any proceedings for the condemnation of any real property, shall make a map and profile of the route adopted by it upon or through any private property," etc. This provision was doubtless mainly intended to apply to cases in which resort might be had to condemnation proceedings to acquire right of way over ordinary, private lands, and in some respects its requirements are not especially appropriate to this case. Still, independent of condemnation proceedings, it calls for the filing of a map, etc., before entering upon private property, and such, in my opinion within the meaning of this provision, is the plaintiffs' property. I think, however, that the benefits of this provision are to be invoked by each owner as to his own property, and that he cannot complain because a map has not been filed of the proposed route through the lands of some other person. And certainly that one property-owner cannot enjoin the construction of a road because the builder thereof has not filed a map of its proposed course through private lands where a right of way has been amicably secured. There are obvious reasons why it may be well that a property-owner opposing the construction of a railroad should be advised by profile, etc., just where and how a corporation proposes to cross his land. He is not specially interested in knowing this about somebody else's land. It is to be observed that this provision does not require a map and profile of the entire route which might be of general use to all property-owners, but only of the route through private property, which, naturally, will be a matter of interest in each case to the individual owner. It does not appear in this case that there is any controversy about or opposition to the

defendant's route over any other private property, and I, therefore, conclude that all that plaintiffs are entitled to in this respect is a map of the route over their road.

Second. Plaintiffs complain that "defendant has not obtained the consents of the owners of private property and of the local authorities and filed the same in the office of the county clerk as required by sections 91 and 92, Railroad Law."

Upon the affidavits submitted upon both sides, it does not appear that the necessary consents have not been obtained. In fact, the contrary is alleged. It does appear that the consent of the local authorities of the town of Geddes has not been filed in the clerk's office. This should be done.

Third. It is claimed that "defendant has not complied with the provisions of sections 90 and 12, Railroad Law, with reference to agreeing with the plaintiffs as to the manner of crossing or the compensation to be paid to the plaintiffs for the right to cross and has instituted no proceedings therefor."

This raises the question of how far the sections referred to by plaintiffs have been superseded and in effect repealed upon this point by section 68 of the same law (see Laws of 1897, chap. 754), conferring upon the Railroad Commissioners certain powers upon this subject. There is no doubt that the latter section has conferred upon such Commissioners the power to determine how the crossing of one road by the other should be made, and how certain expenses in connection therewith should be borne. This has been done upon the application of the defendant upon due notice to and appearance by the plaintiffs. The only possible matter, even upon the theory of plaintiffs, not covered by this action of the Commissioners, is that of a "compensation" as referred to in section 12 over and above the adjustment of "expense," as provided for in section 68. The contingency of defendant's being compelled by a final decision in the case to make such compensation can, however, be safely provided for by the giving of a sufficient undertaking.

Fourth. It is claimed that "the proposed extension of defendant's railway is the construction of a new and independent line of railroad and that it became necessary to obtain a certificate * * * that public convenience and necessity require the construction of its proposed road."

The language of the statute providing for the construction of "extensions" by a street surface railroad, and in effect exempting them from the requirements of a certificate of public necessity (Laws of 1890, chap. 565, § 59), is broad and has been given a liberal construction by the courts. *Bohmer v. Haffen*, 35 App. Div. 381-389.

A case might doubtless be conceived of where a corporation, in bad faith, might attempt to evade the provisions of the statute by constructing a railroad under the guise of a branch or extension. The papers before me, however, fail to establish that condition in this case, and I see no adequate cause for treating the construction now being made as other than an "extension."

In accordance with the foregoing conclusions, the motion to vacate the injunction is granted, with ten dollars costs, to abide event upon the following conditions:

1. Defendant shall file in the proper places respectively a map and profile of its proposed road over plaintiffs' property and the consents to the construction of its road by the local authorities of the town of Geddes.

2. It shall give an undertaking in the penal sum of \$5,000, to be approved by a justice of this court or county judge of Onondaga county, conditioned that if it shall finally be determined herein that plaintiffs are entitled to compensation under sections 90 and 12 of the Railroad Law over and above the provisions of section 68, it will, within a reasonable time, take the proper steps to have such compensation fixed and pay the same.

Ordered accordingly.

Abandonment of Part of Street Surface Railroad.

I.

IN THE MATTER OF THE APPLICATION OF THE UTICA BELT LINE STREET RAILROAD COMPANY, UNDER SECTION 103 OF THE RAILROAD LAW, FOR APPROVAL OF ABANDONMENT OF A PORTION OF ITS TRACK.

April 28, 1899.

This application, by the Utica Belt Line Street Railroad Company, was filed with this Board on April 28, 1899. It asks the approval of the Board, under section 103 of the Railroad Law, of a declaration of abandonment of a portion of the track of the applicant on Grove place, between Elm street and Steuben street, in the city of Utica. Accompanying the application is a resolution of the common council of the city, asking the city surveyor to notify the company to take up its track in the street, as aforesaid. The proceeding required by the statute was taken by the company, and it appearing to this Board that it would be in the interest of the public to approve the declaration of abandonment of the track referred to, said declaration of abandonment was approved.

Change of Name.

I.

SUPREME COURT—ALBANY COUNTY..

IN THE MATTER OF THE PETITION OF THE ALBANY, HELDERBERG AND SCHOHARIE ELECTRIC RAILWAY COMPANY, AS TO CHANGING ITS NAME TO ALBANY AND SCHOHARIE VALLEY RAILROAD COMPANY.

August 24, 1899.

To the Supreme Court of the State of New York:

The petition of the Albany, Helderberg and Schoharie Electric Railway Company for leave to change its name and to assume the corporate name "Albany and Schoharie Valley Railroad Company," and the resolution of the board of directors of said company that it take the necessary steps to secure the change of name as aforesaid, which petition and resolution are hereto annexed, are hereby severally approved; and the Albany Evening Journal, newspaper, being the State paper, published at Albany, in which notices by State officers are authorized by law to be published, and the Schoharie County Democrat, published in the village of Schoharie, in the county of Schoharie, State of New York, are hereby approved and designated as newspapers in which the notice of the annexed petition for a change of name of said corporation shall be published, once a week for six successive weeks, in accordance with the provisions of section 2413 of the Code of Civil Procedure.

Dated at Albany, New York, August 24, 1899.

JOHN S. KENYON,
Secretary Board of Railroad Commissioners.

Change of Gauge.

I.

IN THE MATTER OF THE APPLICATION OF THE STONY CLOVE AND CATSKILL MOUNTAIN RAILROAD COMPANY FOR CONSENT OF THE BOARD OF RAILROAD COMMISSIONERS TO A CHANGE OF THE GAUGE OF ITS RAILROAD, IN ACCORDANCE WITH CHAPTER 267 OF THE LAWS OF 1891.

April 19, 1899.

The Stony Clove and Catskill Mountain Railroad Company having duly filed with this Board, on or about April 1, 1899, a verified petition asking for the consent of this Board to a change of the gauge of said railroad from three feet to four feet eight and one-half inches, and it appearing from said petition that at a special meeting of the stockholders of said company, called for such purpose and held on the 27th day of March, 1899, at Rondout, N. Y., the corporation and persons representing and owning more than three-fourths of the capital stock of said company voted in favor of a resolution approving of such change of gauge as aforesaid, and it appearing to the Board that the interests of the public will be subserved by said change of gauge, it is

Ordered, That the prayer of the petitioner be granted and the Board of Railroad Commissioners hereby consents to a change of the gauge of the railroad of the Stony Clove and Catskill Mountain Railroad Company from three feet to four feet eight and one-half inches, in accordance with chapter 267 of the Laws of 1891.

II.

IN THE MATTER OF THE APPLICATION OF THE KAATERSKILL RAILROAD COMPANY FOR CONSENT OF THE BOARD OF RAILROAD COMMISSIONERS TO A CHANGE OF THE GAUGE OF ITS RAILROAD IN ACCORDANCE WITH CHAPTER 267 OF THE LAWS OF 1891.

April 19, 1899.

The Kaaterskill Railroad Company having duly filed with this Board, on or about April 1, 1899, a verified petition asking for the consent of this Board to a change of gauge of said railroad from

three feet to four feet eight and one-half inches, and it appearing from said petition that at a special meeting of the stockholders of said company, called for such purpose, and held on the 27th day of March, 1899, at Rondout, N. Y., the corporation and persons representing and owning more than three-fourths of the capital stock of said company voted in favor of a resolution approving of such change of gauge as aforesaid, and it appearing to the Board that the interests of the public will be subserved by said change of gauge, it is

Ordered, That the prayer of the petitioner be granted and the Board of Railroad Commissioners hereby consents to a change of the gauge of the railroad of the Kaaterskill Railroad Company from three feet to four feet eight and one-half inches in accordance with chapter 267 of the Laws of 1891.

Cooking Stoves in Cars.

I.

IN THE MATTER OF THE APPLICATION OF THE DELAWARE AND HUDSON CANAL COMPANY FOR APPROVAL OF COOKING STOVES IN USE IN THE PRIVATE CARS OF SAID COMPANY, No. 500 AND No. 200.

February 6, 1899.

This application was filed with the Board on February 3, 1899. The matter was referred to Commissioner Dunn, who reported, recommending that the application be granted.

The report of Commissioner Dunn was adopted, and the Board hereby approves of the cooking stoves described in the application, to be used for cooking purposes in the private cars of the Delaware and Hudson Canal Company, No. 500 and No. 200.

In the Matter of Wrecking Tools in Passenger Cars.

I.

IN THE MATTER OF THE APPLICATION OF PULLMAN'S PALACE CAR COMPANY, UNDER SUBDIVISION 6 OF SECTION 49 OF THE RAILROAD LAW, FOR APPROVAL OF THE LOCATION OF WRECKING TOOLS IN ITS PASSENGER CARS.

December 23, 1898.

Application having been made to this Board by Pullman's Palace Car Company, under subdivision 6 of section 49 of the Railroad Law, as amended by chapter 521 of the law of 1898, on October 6, 1898, for approval of the location of wrecking tools in its passenger cars, operated in this State, and a blue print of the interior of the cars, showing said location, having been filed with the Board, and the Board approving of such location, it is

Ordered, That the location of wrecking tools in the passenger cars of Pullman's Palace Car Company, operated in this State, as shown by blue print on file in this office, be and it is hereby approved, and such approval be endorsed on the blue print filed in this office.

II.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY, RELATIVE TO WRECKING TOOLS IN PARLOR CARS.

February 1, 1899.

On January 17, 1899, this Board received a letter from the Long Island Railroad Company, stating that the company was building some parlor cars, and asking if the boxes containing the wrecking tools, required by law to be carried in passenger coaches, could not be placed in the ends of such cars (the Board having required that these boxes be placed near the center of passenger coaches). The company forwarded to the Board a blue print of the proposed location of the wrecking tool boxes in such parlor cars, but the Board did not approve such location, considering it to be too near the end of the car. The company was notified to this effect.

INQUIRIES.

During the year, a large number of inquiries, on different subjects, have been submitted to the Board, some of them requiring extensive research. It has been the custom of the Board, heretofore, to collect the principal ones, with the answers of the Board, for publication. The number, however, has so greatly increased, and the subject matter of many of them has been so frequently published in the reports of this Board, that it is deemed unnecessary to repeat any of them in detail in this report.

Circulars Issued During the Year.

AS TO CHANGES IN ANNUAL REPORT FORM.

ALBANY, *December 31, 1898.*

DEAR SIR.—The Board of Railroad Commissioners hereby prescribes the following changes in the form of annual reports to be made to it by steam surface railroad companies, for the year ending June 30, 1899, and following years:

In the table "Traffic and Mileage Statistics" shall be given the "Number of passengers carried in the State of New York;" also, the "Number of tons of freight carried in the State of New York." In the table "Miscellaneous Statistics" shall be given the "Average number of persons (including officials), *residents of this State*, employed during the year."

This notice of the proposed changes is given you in compliance with section 158 of the Railroad Law.

By the Board,
JOHN S. KENYON,
Secretary.

CIRCULAR AS TO ACCIDENTS ON STEAM RAILROADS.

ALBANY, *January 19, 1899.*

To the General Superintendents or Managers of Steam Railroads:

Section 159 of the Railroad Law requires the general superintendent or manager of every railroad to inform this Board of any accident resulting in loss of life or injury to person, immediately after the occurrence of the same.

Generally the above provision is promptly complied with, but it frequently happens that several days elapse between the date of an accident and the receipt of any information respecting the same by the Board.

The Board must insist upon a strict compliance with the law, and you are hereby notified that it will require an *immediate* tele-

graphic notice of every accident whereby loss of life or serious injury to person occurs, whether on passenger or freight train, on track or at grade crossings, or otherwise; such notice to be followed as speedily as possible by a full and detailed report of the accident, and whenever a coroner's inquest is held the verdict must also be forwarded.

By the Board,
JOHN S. KENYON,
Secretary.

GRADE CROSSING CIRCULAR ISSUED TO TOWN BOARDS.

ALBANY, *February* 14, 1899.

DEAR SIR.—Enclosed herewith please find copy of chapter 754, Laws 1897, in regard to grade crossings. You will notice that for the elimination of a grade crossing the State shares in the expense, paying one-quarter of the same, the town or municipality one-quarter and the railroad company one-half.

The great sacrifice of life and limb each year through accidents at grade crossings makes it imperative that the declared policy of the State in regard to the abolishment of such crossings be carried out as rapidly as possible. The annual appropriation by the State for such purpose is \$100,000, representing a total annual expenditure on the part of State, municipalities and railroad companies of \$400,000. It is provided by law that the expenses incurred in such work shall be distributed and apportioned as evenly as possible over and among the railroads of the State and the municipalities. Consequently no very great amount can be expended annually on any one railroad nor in any one particular locality.

The movement for the abolishment of grade crossings can be started by the local authorities, by the railroad companies themselves or by this Board.

We respectfully suggest that in connection with your town board you examine the railroad crossings in your town, with a view to making application to this Board for the abolishment of such as are specially dangerous, and that can be abolished without burdening your town too heavily; and also in the event of a determination by your Board to apply for the abolishment of any such crossings, you will, in making up your annual budget, take into consideration the necessary provision for the town's proportion of the estimated expense.

It frequently happens that a highway crosses a railroad, then re-crosses the same within a comparatively short distance, and

that by simply straightening or diverting the highway between such crossings both can be abolished, and with a normal or very moderate outlay.

Blank applications will be forwarded to you, with any further information you may desire, on your request therefor.

By the Board,

JOHN S. KENYON,

Secretary.

GRADE CROSSING CIRCULAR ISSUED TO RAILROAD COMPANIES.

ALBANY, *February 14, 1899.*

DEAR SIR.—Enclosed herewith please find copy of chapter 754, Laws 1897, in regard to grade crossings. The Board does not consider it necessary to call your attention to the importance of the elimination of grade crossings as rapidly as a due regard for the financial interests of the railroads and of the municipal corporations interested will allow. Good and economical management, and the protection and safety of the traveling public alike demand such a course. The annual appropriation required to be made by the State is \$100,000; this represents a total expenditure by the State, the railroads, and municipal corporations of \$400,000. It is also provided that the changes in grade crossings required in any one year shall be so distributed and apportioned over and among the railroads and municipalities of the State as to produce such equality of burden for their proportionate part of the expense as the circumstances of the case will permit. It will be seen, therefore, that no very great expenditure can be made in any one year on any particular road or in any particular municipality, unless a special appropriation is made by the State for such purpose. To this end we trust you will carefully examine the grade crossings of your line with a view towards the early elimination of those that are most dangerous, and also take into consideration the advisability of placing in your annual budget such amount as will cover your share of the estimated expense of such elimination.

The Board respectfully requests that you give this matter the attention its importance demands, and asks your cordial co-operation in the work.

By the Board,

JOHN S. KENYON,

Secretary.

CIRCULAR AS TO STEAM RAILROAD MAP OF THE STATE.

ALBANY, *February 15, 1899.*

DEAR SIR.—Enclosed herewith you will find a copy of a railroad map issued by this Board. Will you please ask your engineering department to look at the line of your road as shown on the map, and if there are any corrections to make, mark such corrections on the map and return it to this office? If the line as shown is found to be correct, please notify this Board to that effect.

Very truly yours,

JOHN S. KENYON,

Secretary.

CIRCULAR AS TO STREET SURFACE RAILROAD CAR BRAKE TEST.

ALBANY, *August 19, 1899.*

The Board of Railroad Commissioners has made arrangements for a test of brakes for street surface railroad cars. Twenty-two permits have been issued for that purpose, and each person or company receiving a permit is allowed to equip with brakes one of the cars of the Metropolitan Street Railway Company, and the tests will be made, three or four on one day at Lenox avenue and One Hundred and Forty-sixth street, New York city. The first series of tests will take place on Tuesday, August 29th, and Wednesday, August 30th, between the hours of 9 a. m. and 5 p. m. On these days from five to seven brakes will be tested. Notice of the dates of tests to follow will be given in the daily newspapers and in the street-railway publications. An invitation to be present is extended to those who are interested in the operation of street surface railroads.

By the Board,

JOHN S. KENYON,

Secretary.

ACCIDENTS.

I.

REPORT OF ACCIDENT TO SNOW SHOVELERS ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, DECEMBER 13, 1898, NEAR LOONEYVILLE, ERIE COUNTY—11.55 A. M.

January 1, 1899.

Report by Inspector:

On this date there was a total of about 500 extra men shoveling snow between Grimesville and Batavia. The men killed were at work flanging on track No. 2. A freight train was passing on track No. 3, "west bound." Passenger train No. 37 came along on track No. 2, "going in the same direction, west-bound." The smoke from the freight engine and the flying snow made it impossible for the engineer of train 37 to see very far ahead, and when about half way past the freight train eight of the snow shovelers were struck and killed. The day before, the foremen of these extra gangs were notified by the superintendent to notify their men to keep a sharp lookout for trains, and the following notice was also posted: "All concerned: Enginemen must give plenty of whistle warning whenever they see shovelers working on track, or in cuts, and around stations and yards."

Respectfully submitted,

GEO. S. GATCHELL,

Inspector.

II.

IN THE MATTER OF AN ACCIDENT TO THE EMPIRE STATE EXPRESS ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, AT UTICA, DECEMBER 28, 1898.

January 1, 1899.

Report by Inspector:

JOHN S. KENYON, Esq., *Secretary, Railroad Commission:*

MY DEAR SIR.—As per your telegram, I have investigated accident to Empire State Express, at Utica, on Wednesday, December 28, 1898, and respectfully report the following: About one-

half mile west of Utica station there is a cross-over from the yards of the N. Y. C. to the yard of the D., L. & W. On the above date an engine was crossing track No. 1 with a number of empty gondolas, when the Empire State Express engine ran into and through them, injuring engine and coaches to slight extent, engine going to Albany shops under its own steam later. As far as I could learn, no one was injured, except the baggageman, who was slightly bruised. The distant and home signals were against the Empire State Express, and the accident was due to the engineer not paying attention to same.

The engineer of the Empire State Express was dismissed from the service of the company.

III.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, ON A "Y" CONNECTION OWNED BY SAID COMPANY, BETWEEN LITTLE FALLS AND HERKIMER, ON JANUARY 6, 1899.

January 9, 1899.

Report by the Superintendent of the Grade Crossing Bureau:

The trestle at Herkimer which failed under New York Central and Hudson River engine No. 473, was situated on the north side of the main highway between Little Falls and Herkimer, and supported a track which formed part of a Y between the M. and M. yards and the tracks of the New York Central and Hudson River. The land in the vicinity is very low and is often flooded by the waters of the West Canada Creek, which is situated east about 600 feet from the above Y track. Near the trestle is an opening under the New York Central and Hudson River tracks, which is for the purpose of allowing the water of floods to pass underneath the tracks to the flat lands on the opposite side of the tracks, and from there to the Mohawk river.

The trestle was supported by bents, some of which were formed of piles, properly capped, and some were framed from hemlock, 12 inches by 12 inches timber. Those on the northerly end of the structure seemed to be all pile bents, while those on the southerly end were probably all framed bents, although this cannot be positively determined, as all the southerly bents had been removed when your inspector arrived there. The stringers supporting the ties, rested on corbels, which, in turn, rested on the cap pieces of the bents in the usual way. The stringers were of yellow pine, 8½ inches by 14 inches, there being six such stringers running the entire length of the trestle, three being under each

rail. The arrangement of all timbers is as shown on sketch attached.

All timber that could be inspected was in very good condition. The chips submitted were taken from the stringer which broke under the weight of the engine, at the point of rupture.

Statement of Mrs. Christman.

On January 5th, the waters of the West Canada Creek had flooded all the flat lands in the vicinity to a considerable depth. In the afternoon of that day the temperature fell considerably and the water receded rapidly. At about 9:30 p. m. the ice in the creek began to move and was forced onward by the large amount of water in its rear. A jam was speedily formed at the highway bridge which spans the creek, and the ice was forced on to the flats. In passing over the flats the velocity of the ice was very great, and people living on the flats left their homes on account of the danger. At 10.30 Mrs. Christman, with Mr. Christman, walked toward the trestle in order to see whether or not it had been damaged, and they saw that one of the framed bents of the structure had been forced from beneath the track by the ice. They did not report the accident, as they were of the opinion that the absence of the bent would be discovered by the railroad men in the morning.

Engine No. 473 was proceeding over the trestle at 6:30 a. m. on January 6th for the purpose of running to the penstock on the New York Central and Hudson River Railroad tracks. The engineer was not on the engine. Engine No. 1000 was some distance back of engine No. 473, and was going in the same direction. The fireman of engine No. 473, John Brennan, was running the engine, Andrew Moore of engine No. 1000 and J. Brown, a freight brakeman, being also on board. When engine arrived over the point from which bent was forced, the stringers were unable to bear the weight, and failed under each rail. The failing on each side was simultaneous and not very rapid, so that the engine was deposited in the ice and water in an upright position. Brennan and Brown saved themselves with difficulty, as the current was very swift, but Moore was drowned.

The trestle would have failed much more rapidly if it had not been for the manner in which the joints of the stringers had been arranged. This arrangement is shown on sketch, and also explains why the failure was not sudden, but comparatively slow.

The foreman of the section in which the trestle is situated is J. Desmond, of section No. 1. He examined the trestle on the evening before the accident took place, and found it to be in good condition, with all the bents in position.

Mr. Christman's residence is situated on the flat lands, about 350 feet from the point of accident.

IV.

IN THE MATTER OF AN ACCIDENT AT THE LAKE ROAD GRADE CROSSING OF THE WEST SHORE RAILROAD, NEAR BERGEN STATION, GENESEE COUNTY, FEBRUARY 4, 1899.

February 27, 1899.

Report by Inspector:

DEAR SIR.—I have investigated an accident which occurred at a grade crossing of the West Shore Railroad, near Bergen station, Genesee county, N. Y., on the evening of February 4, 1899, and respectfully submit the following report:

Train No. 6, a fast, east bound express train, on the West Shore Railroad, on the evening of February 4, 1899, at about 8.50 p. m., struck and instantly killed Mrs. Nellie Snyder at what is known as the Lake road crossing, near Bergen station. There are no gates or flagman at this crossing. Mrs. Snyder was riding in a covered phaeton drawn by a single horse, and drove upon the track from the north side of the railroad. The carriage was demolished and horse injured so that it died shortly afterward. The body of Mrs. Snyder was found about 360 feet east of the crossing, opposite the station, on north side of main track and between main track and a side track. At the time of the accident a freight train (extra No. 73), consisting of a locomotive, 20 freight cars and a caboose, was standing on a side track, north side of main track, and immediately west of the Lake road crossing. Testimony at coroner's inquest located the caboose of the freight train at or very near the western boundary of the highway, with the 20 freight cars and locomotive, attached, extending westward. This freight train, thus located, would effectively prevent a person driving toward the crossing from the north, in such a conveyance as Mrs. Snyder was, seeing train No. 6 approaching before driving upon the track. No person saw Mrs. Snyder drive upon the track, and there is no information as to whether she stopped to listen or not, nor as to whether top to carriage was up or down. She usually drove with top up, and was driving with top up afternoon before accident. Engineer on locomotive No. 15, pulling train No. 6, blew long blast of whistle, for station, when about a half mile west of crossing, and two long, followed by two short blasts, for the crossing, at the whistlepost (80 rods from crossing), and the fireman rang the bell from that point all the way to the crossing. The weather was a little hazy, but the engineer testified he could see the station switch and signal lights plainly from where he blew whistle for crossing; also saw the crossing was clear after locomotive had passed switch about half way from whistlepost to crossing. Just at the time the locomotive passed crossing he was putting on the

injector and was not looking ahead; he first learned something was wrong when opposite the station, from seeing fire fly from driving wheel; he applied the brakes and stopped the train about half a mile east of the station. The fireman testified at the inquest, that he was ringing the bell and looking ahead when approaching the crossing, but saw nothing wrong and did not see anything struck at the crossing. Train No. 6 was about 18 minutes late, and was running at rate of 50 to 60 miles per hour at time of accident. A triangular crossing sign, plainly marked, was conspicuously located at the crossing. Whistleposts were stationed 80 rods from the crossing, both east and west, at the point where law directs the whistle to be blown or bell rung. The Lake road crossing is not necessarily a dangerous one, although a much used thoroughfare. The railroad track is straight for about a mile in both directions and the general surface of the ground nearly level with the track. A small tool-house, about 200 feet west from the crossing on north side, obstructs the view slightly, coming to the crossing from that direction, and an orchard on same side of railroad, about 600 feet west and on ground a little higher than the track, also hides the view of a distant train until within about 150 feet of the track, but from there to the crossing (aside from the slight obstruction caused by the tool-house) trains approaching can be plainly seen a half mile or more distant in either direction. East from Bergen station the West Shore Railroad operates on double track, and west from that point on single track; therefore west bound freight trains are frequently delayed at this point, waiting for orders to go on the single track, and they often wait on the side track near the Lake road crossing (as extra No. 73 did), when thus delayed. This practice renders the crossing exceedingly dangerous. The general surface of the Lake road for several hundred feet each side of the railroad track is about level, and from one to two or three feet higher than the surface of the railroad. Two tracks cross the highway—a main track and a side track.

The only practical way to eliminate the grade crossing is to raise the roadway and take it over the railroad tracks on a bridge. This would necessitate quite an expenditure of money, and as there are in existence so many worse crossings requiring remedy, it appears hardly expedient to attempt the elimination of this one at present. There are no buildings or other property that would be materially injured by raising the roadway. The coroner's jury rendered verdict that "Mrs. Nellie Snyder came to her death by being struck by engine No. 15 of train 6, last Saturday evening at 8:50 o'clock, at the Lake road crossing of the West Shore Railroad. We also find that the company was

negligent, in not properly guarding the crossing and in obstructing the view by allowing a freight train to stand in such a position that a person approaching the crossing from the north could not see a train coming from the west. We recommend that the Lake road crossing of the West Shore Railroad be protected by flagman and gates."

Your inspector respectfully recommends that gates be erected or flagman maintained at the Lake road crossing of the West Shore Railroad, near Bergen station.

The recommendations of the inspector were made the recommendations of this Board, and the company was notified. The company notified the Board, that it had given instructions to put a flagman at the crossing at once, and that as soon as the weather would permit, gates were to be erected thereat.

V.

IN THE MATTER OF AN ACCIDENT ON THE SIXTH AVENUE LINE OF
THE MANHATTAN RAILWAY, FEBRUARY 11, 1899.

March 6, 1899.

Report by Electrical Expert:

I have investigated an accident which occurred on the Manhattan Railroad of New York city, and submit the following:

February 11th, at 9.40 a. m., at the Sixty-sixth street station, on the Sixth Avenue line of this company, a Sixth avenue train, south-bound, drawn by engine No. 226, Sam'l S. Allen, engineer, R. C. Chapman, conductor, ran into the rear end of a Ninth avenue south-bound train drawn by engine No. 222, E. O. Strong, engineer, William Douglas, conductor. Engine No. 226, which was working backwards, ran into the rear coach of the Ninth avenue train, while it was standing at the Sixty-sixth street station, breaking the rear platform of the last car of the Ninth avenue train, damaged the rear part of the tank and broke the draw bar of the engine. There were about 200 passengers on the Ninth avenue train, thirty or forty of these were in the rear coach, none of whom were seriously injured.

With this report is submitted statements made to me in reference to the accident by the conductor, engineer and rear guard of the first or Ninth avenue train, and of the conductor, engineer, fireman and rear guard of the second or Sixth avenue train.

After an investigation of the accident, I find that the Ninth avenue train, consisting of four coaches and engine No. 222, left One Hundred and Thirty-fifth street station at 8.43 a. m., which was thirty-six minutes behind scheduled time. It was due at the

Sixty-sixth street station at 8.43, and arrived there at 9.37, making it fifty-four minutes late at that point. The Sixth avenue train, consisting of five cars and engine No. 226, was about thirty minutes behind scheduled time, following the Ninth avenue train, keeping from fifty to three hundred feet behind it. The morning of the accident the weather was very cold and clear. There was a drip from the hose of the Ninth avenue train which froze as it fell on the rail, making it slippery.

Between the Sixty-sixth Street station and the next one north at Seventy-second street, a distance of 1,560 feet there is a grade of 1 per cent. descending to Sixty-sixth street, and a clear view of the tracks can be had between these stations.

The crew of the First or Ninth Avenue train complied with all the rules of the company in bringing their train into and while making the stop at Sixty-sixth Street station, and are entirely blameless in the matter of the accident. The accident was the result of the engineer making a mistake in the distance he was from the train ahead, or the brakes did not work when he endeavored to apply them. The engineer, Mr. Allen, has been employed as an engineer, running on this line for the past fourteen years. As shown in his statement, he claims that the brakes did not work satisfactory on the trip before the accident happened, and that he had difficulty in making the station stops before reaching Sixty-sixth street.

The statement of the trains' crews submitted, show that at times these trains run at a rate of speed of fifteen miles per hour. At this speed, complying with the rules of the company, which allows a train to run one city block behind the one preceding it, the second train would be eleven and three-tenths seconds behind the one ahead of it; operation of trains on eleven and three-tenths headway at a speed of fifteen miles per hour, can only be accomplished in safety by the utmost care on the part of every person interested in their operation.

As the method of operation on this road is to be changed in the near future to electric traction, any recommendation that I might make to prevent accidents similar to this one with trains drawn by steam engines, might not be of any service in preventing them with operation by the electric system. I would, however, suggest that more care be given to the condition of the braking system on the trains, and that they be thoroughly examined at the end of each round trip.

The Board communicated with the company, recommending that great care be given to the condition of brakes on trains, and that they be thoroughly examined at the end of each round trip. The company notified the Board that: "Our brakes are now thoroughly examined at the end of each trip, that is, at both the northern and southern ends of the road."

VI.

IN THE MATTER OF AN ACCIDENT ON THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY, AT WEST SENECA, ERIE COUNTY, ON MARCH 20, 1899.

March 22, 1899.

Report by Superintendent of the Grade Crossing Bureau:

Lake Shore and Michigan Southern Railroad Company's train No. 18 was wrecked at West Seneca, on the morning of March 20th. The location of the wreck was at a facing point switch, leading to a siding making a connection with a side track of the West Seneca yards. A sketch of the vicinity is attached.

Train No. 18 left Athol Springs, the first station west of West Seneca, at 5:57 a. m. and passed the tower at West Seneca at 6.02 a. m., the distance being about 4.7 miles; the average rate of speed being, therefore, about 56 miles per hour. All trains slow down slightly at the entrance to West Seneca yards, about 2,000 feet west of the point of accident, and train No. 18 was also slowed down on that morning, so that the speed through the yard and at the time of accident was between 30 and 35 miles per hour. No. 18 was on time.

The switches and derails leading from the main tracks are interlocked with proper signals, both signals and switches being worked by means of levers in an ordinary Union interlocking machine located in a tower. The machine was erected and installed last July. The machine and all pipe and wire connections are in excellent condition.

The weather during Sunday and Sunday night had been clear, and there was scarcely any wind blowing. On Saturday a sleet storm had prevailed all day, filling switches and coating the rails with ice. Two trackmen are kept on duty every night and were on duty on Sunday night. All switches had been cleaned and salted, and were perfectly clean at the time of accident.

Upon reaching the switch a derailment took place, and after derailment the engine and tender were turned over, the buffet car was thrown at nearly right angles to the tracks, blocking both east and west bound tracks, and the front truck of the following sleeper rested on the ties. The position of engine, tender and buffet car is shown on attached sketch No. 2.

Section Foreman James Daly's Statement.

I arrived shortly after the accident happened and before any work had been done to remove the wreck. I looked at the switch; it was clean and in good condition, and was *unlocked*; trucks were standing on the detector bar, so that the switch could not have

been locked at the time of accident. The track was at exactly gauge and in good condition. There are six main line switches in my section within 600 feet of the tower, and two men on duty on Sunday night within this distance of the tower.

Trainmaster P. J. Horgan's Statement.

I arrived at the point of accident, with the wrecking crew, at about 6.45. I found the engine turned over on its side, north of the east-bound track, the tender even with the engine and lying on the east-bound track, the buffet car across both east and west-bound tracks, and the trucks of the following sleeping car on the ties. My theory is that the engine was derailed at the point of switch, ran along the ties until it was overturned, and the momentum of the cars behind caused the tender and buffet car to take the positions in which they were found. I did not look at the switch; my duty was merely to clear the track. The last previous train bound east which passed over the switch was at 5 a. m., and the last previous train trailing over it was at 5.50 a. m. None of the latter cars would have damaged the switch in passing over it, as all the cars had just been inspected and were found to be in good condition.

Repairman John Broderick's Statement.

I was working in the vicinity all day Sunday, but took no portion of the interlocking apart. The switches, locks and signals worked perfectly. When I arrived at the wreck I found the switch unlocked and trucks standing on the detector bar, showing that the switch was not locked at the time of accident. No switch points were broken, and only two connecting rods near the heel of the switch were slightly bent.

Yard Foreman John Widmer states that he was on duty at time of accident; that he heard the engineer of No. 18 blow for brakes shortly after having passed the tower; that J. Ackerman, a brakeman on No. 18, had told him that the engineer just before derailment had put on the brakes. Charles Vail, section foreman, also heard engineer blow for brakes.

Towerman John Kelly's Statement.

My hours on duty are from 11.30 p. m. to 7.30 a. m., and I have been employed by the Lake Shore and Michigan Southern just eight days. I was on duty at the time of accident; I set up the route for No. 18, and cleared both home and distant signals. No part of the interlocking was, to my knowledge, broken. I heard the engineer blow for brakes shortly after passing the tower, but I paid no attention to it until I felt the jar caused by the derail-

ment. The signals were all cleared fully ten minutes before the arrival of the train.

J. E. Timmons, towerman on duty during Sunday, states that all switches and signals were working perfectly during Sunday, and that no portion of the interlocking had been taken apart.

Your inspector manipulated the levers in the machine and found that no home signal could be cleared until all switches were properly set and locked. Mr. Daly, track foreman, and Mr. Broderick, the repairman, positively state that the switch was unlocked at the time of accident. The marks on the ties were made by car or tender wheels and not by engine drivers. This indicates, from its final position, that the engine, instead of following the main line ran into the siding. The switch being unlocked, the sudden jar of the engine against the switch rail then probably caused the stock rail to spring out, and before it could spring back to its normal position the wheels of the tender trucks had passed into the space between the switch and stock rail, permitting the trucks to drop onto the ties. All the marks visible bear out this theory. The engine then being on the side track, and the tender on the ties of the main track, caused a side pull on the tender coupler sufficient to turn over the tender, and the tender in turn the engine. The coupler between the tender and engine being broken just as the engine was turning over, and the tender then being free, its momentum carried it forward to a point just opposite the engine, so that the latter fell on the tender. The position of the buffet car was caused by its momentum being suddenly checked.

Mr. Tracy Niles, Superintendent of the Eastern Division of the Lake Shore and Michigan Southern Railroad, has reported to Mr. P. S. Blodgett, the general superintendent, that after a thorough investigation he is unable to explain the cause of the wreck, or fix the blame, if there is any.

The fact that the switch was unlocked at the time of the accident, proves positively that the home signal could not have been cleared; that the engineer, therefore, passed the signal at danger, and, looking ahead, saw the switch set wrongly for his proper route and blew for brakes, but too late to stop his heavy train before reaching and passing over it.

It is not practicable to print here, the sketch referred to in the report.

VII.

IN THE MATTER OF AN ACCIDENT ON THE THIRD AVENUE LINE OF THE MANHATTAN RAILWAY, NEAR THE FOURTEENTH STREET STATION, MARCH 21, 1899.

March 27, 1899.

Report by the Inspector:

In the matter of the collision on the Third Avenue line of the Manhattan railway, near Fourteenth street station, March 21, 1899, I have made an investigation and respectfully submit the following report:

A regular passenger train, bound north, on the Third Avenue line of the Manhattan railway, left South Ferry at 2.47 a. m., March 21, 1899, closely followed by what is known as the "collector's train," which consisted of engine No. 87 and one car. This train runs over the entire system each night, stopping at all stations long enough for each station agent to transfer to the collector the day's collection of tickets and money received from sales of tickets. The stop at each station is very short and the train makes good time. At the Fourteenth street station the passenger train overtook a supply train which proceeded to a siding near Sixteenth street to allow the regular train to pass. The passenger train drew slowly out from the Fourteenth street station to allow the supply train to get out of the way, and when about 100 feet past the station platform the collector's train ran into its rear car, at considerable speed, breaking the platform, gates and railing and causing slight damage to two other cars. No one on the passenger train was injured. The train was moving slowly when struck, but would have been compelled to stop very shortly, as the preceding train which was backing on the siding was not yet clear of the main track. The engineer on the collector's train saw the rear lights of the passenger train at Fourteenth street and when his train pulled out from the station he saw the train ahead was running slowly. He says he started under full steam, but after running half a block attempted to close the throttle, but could not do so, as the dog in the throttle refused to move, and before he had time to release the dog, his engine ran into the rear of the train ahead. The engine of the collector's train was running tank first, and the force of the collision drove the tank back, pinning Samuel Baines, the fireman, who was sitting on the box in the cab on his side of the engine, by both legs between the tank and the box, and severely injuring him. He was removed to the hospital. The engineer was caught in the cab by the debris but managed to extricate himself and was only bruised. One of the watchmen on the collector's car received a slight scratch on the

face. No others were injured. The night was clear, and the track was straight for a long distance, both north and south. After the accident, the rod running from the thumb latch along the throttle lever to the dog which works in the quadrant was found disconnected and the dog held in place by the spring. This prevented the closing of the throttle quickly, and was doubtless the main cause of the accident, although it is evident that the engineer was at fault in following so closely, under full steam, the train ahead. The engineer of the collector's train was suspended indefinitely.

VIII.

IN THE MATTER OF AN ACCIDENT ON THE SIXTH AVENUE LINE OF THE MANHATTAN RAILWAY COMPANY, JANUARY 31, 1899.

March 31, 1899.

Report by Inspector:

In the matter of a collision on the Sixth Avenue line of the Manhattan Railway, January 31, 1899, I have made an investigation and respectfully submit the following report:

A north bound train on the Sixth Avenue line of the Manhattan Railway, carrying no passengers, left Rector Street station at 8.16 a. m., January 31, 1899. The train was drawn by engine No. 112. It had been running as an express train up to that time, and was returning to the yard to lay up until evening express trains commenced running. When the train reached Forty-second street, steam was noticed escaping through the packing on the engine. The engineman did what he could to prevent the escape of the same and succeeded in doing so until he reached Eighty-first street, when the packing blew out and the steam escaped to such an extent that the train became stalled on the grade at Eighty-seventh street. The conductor first discovered something wrong when the train slackened speed at about Eighty-sixth street. He hastened forward to the engine to ascertain the cause, and was informed of what had happened. Then, at the suggestion of the engineman, he went quickly to the rear of his train to get assistance from the train following; one of his trainmen went with him. Engine No. 75 with its train was approaching and was signalled by the conductor of the stalled train to come ahead and "couple on." While proceeding to do this, and while within eight or ten feet of the rear car, the second train was ran into by a third train following it. This third train was drawn by engine No. 215, which at the time was being handled by the fireman, Robert H. Steed; the engineman, Benjamin D. Lott, having left his post to attend to a lubricator which had not been working well. The fireman

saw the train ahead, but had his attention drawn to the engineman repairing the lubricator and failed to notice that the preceding train was stopping until within about twenty-five feet of it; too late to avoid the collision. The train was running about ten or twelve miles an hour at the time. Engine No. 215 was considerably damaged; the platform and about five feet of the rear end of the car struck were crushed and the other cars in the train were slightly damaged. One passenger, Dr. Schneider, was slightly bruised. No other persons were injured. The force of the collision caused engine No. 75 to strike the stalled train with sufficient force to break the railing, platform and gates. The smoke-stack on engine No. 75 was knocked off and the front end damaged.

The responsibility for the accident evidently rests upon the engineman of the rear train, who, in direct violation of the rules of the company, with which he was familiar, left his post and allowed the fireman to run the engine. The fireman was also at fault for assuming the engineman's duty, being also forbidden by the rules of the company, with which he was familiar, to do so. I was informed that the engineman and fireman have both been dismissed from the service.

IX.

IN THE MATTER OF AN ACCIDENT WHICH OCCURRED ON THE RAILROAD
OF THE BLACK RIVER TRACTION COMPANY, IN THE CITY OF
WATERTOWN, MARCH 19, 1899.

April 12, 1899.

Report by Electrical Expert:

I have investigated an accident which occurred on the Black River Traction Company's road in Watertown, and submit the following:

Sunday, March the 19th, at 3 p. m., motor car No. 6, south bound, Louis Cramer, motorman, Pat. Connely, conductor, jumped the track about twenty feet from the north end of the Court Street bridge over the Black river, in the city of Watertown; it crossed the sidewalk, went through the iron railing of the approach to the bridge and over the abutment down to the river bank, a distance of twenty-two feet from the level of the street. At the time of the accident there were five passengers, all men, in the car—only one of these was seriously injured; two jumped off before the car went over the abutment, two jumped after the car started down and one remained in the car until it struck, his name is Julius Manigold, of Dexter, N. Y. He was not seriously injured. Burt Zimmerman, of Brownsville, N. Y., who jumped after the car went over the

abutment, was quite seriously injured. He was taken to the City Hospital and is there at present. The motorman and conductor both jumped before the car went down; neither were injured.

At the corner of Court and Leray streets there is a curve in the tracks. This curve is made by special work and is in a fair condition. There is a grade of less than one per cent. in this special work descending to the bridge. From the end of the curve special work to the bridge, a distance of 45 feet, a 56-pound T rail is laid and is in fair condition. There is a piece of rail six feet in length in the north rail of the track. The joints are all in first-class shape on this section. The track is laid on the south side of Court street and the bridge. Between the end of the curve special work and the bridge there is no grade, and the top of the rail is on a level with the surface of the street.

There is an iron railing on the north side of the sidewalk on the approach to the bridge 48 feet long, and four feet high of lattice-work construction, with a top rail four inches wide and one-quarter inch thick. The bottom rail is composed of two angle irons one and one-quarter inch, each angle one-eighth inch thick. The lattice strips are one and one-quarter by one-eighth riveted at top and bottom and at the centers. On the bridge approach there is a wooden sidewalk four feet wide, on a level with the surface of the street, and is built on iron beams which extend over the abutment. It is 21 feet from the north rail of the track to the iron railing.

After leaving the track the car went diagonally from it across the street and sidewalk through the iron railing.

No. 6 was a vestibuled car, 21 feet over all, vestibules three feet, equipped with two G. E. 800 motors with Peckham trucks, sand boxes, hand brakes and connected so they could be operated from either end at the same time, 30-inch wheels with $2\frac{1}{2}$ -inch tread, had no track scrapers and was estimated to weigh five tons.

After going over the abutment the woodwork of the car was completely destroyed, the trucks, motors, brake rods, spindles were intact; the brake shoes were found to be firmly set against the wheels. The wreck of the car has been removed.

Louis Cramer, motorman, who has been employed in that capacity by the company for the past two years, is 37 years old, and makes the following statement in reference to the accident:

"I was running from Brownsville to Watertown, when approaching Court street curve I shut off the power and expected to drift around the curve. When half way over it the car came nearly to a stop and I turned the controller to the fifth point, and then the car proceeded around to the straight track. My controller was left in the same position until I had run the length of one rail, when the car jumped the track and I then turned the power off and

applied my brakes, which seemed to have no effect in stopping the car, as it kept going ahead, and when it reached the iron railing I jumped from the vestibule door, which was open, but before doing so I opened the car door and told the passengers to jump. At the time the ground was frozen solid and covered with sleet and ice, on top of which there was some snow. The wheels did not seem to cut through the frozen ground, but rode on top of it. No. 6 was an extra car, and I had run it two round trips before the accident. I could not say whether there was any sand in the box or not. I had no trouble with the brakes of this car previous to the accident. I do not think that there was any flat or broken wheel on the car, or at least it was not indicated by the usual noise that such a wheel would make. I have no book of rules, but understand there is such a book printed. There is a posted order that all bridges must be crossed at a speed not to exceed four miles an hour. Our regular cars are equipped with red flags and lanterns."

As the conductor was not in town on the day I made the investigation, I was unable to procure a statement from him. Both the motorman and conductor are still in the employ of the company.

I find that this accident was caused by the rails being covered with ice and snow to such an extent that the flanges rode over them and allowed the wheels to leave the track, and the car being under fair headway could not be stopped in the distance of the 21 feet between the track and the iron railing. To prevent a recurrence of a similar accident at this point, I would recommend that the trolley wire be cut and ended 30 feet from the end of the special work on Leray street, and the other end of the trolley wire be extended 30 feet beyond this point, so that all cars going towards the bridge must come to a full stop, the conductor being obliged to change the trolley from the one wire to the other before going around this curve. Also that a stringer of suitable size and properly secured be placed between the sidewalk and the roadway on the approach to the bridge.

A copy of this report was sent to the company, with a letter making the recommendations of the electrical expert the recommendations of this Board. The company replied, stating that it had taken steps to comply with the recommendation as to guard stringers, but stated that it thought that the cutting of the trolley wire, as recommended, would be impracticable. The Board, however, refused to modify its recommendation, as to the cutting of the trolley wire, and the company was so informed.

X.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NEAR GLENWOOD, MARCH 1, 1899.

April 17, 1899.

Report by the Inspector:

In the matter of the death of John Grier, an engineer of the New York Central and Hudson River Railroad, who was struck by some obstruction near Glenwood, March 1, 1899, I have investigated the accident, and respectfully submit the following report:

East-bound local passenger train No. 134, drawn by locomotive No. 1009, passed block tower No. 16 one mile west of Glenwood station, at 11.10 p. m., being about seven minutes late. About one-quarter mile past the tower is where engineers usually shut off steam, approaching Glenwood station. Fireman, noticing steam was not shut off as usual, went over to engineer's side of cab and found Engineer John Grier about half way out of window, with head injured and unconscious.. He immediately applied air brakes and stopped the train, with the locomotive directly in front of Glenwood station. Engineer was removed from the locomotive and taken to hospital at Yonkers, where he died two days after the accident.

Very near tower No. 16, on slight curve to the right in direction this train was running, is a small rock cut, on side of which was found unmistakable evidence that injury to the engineer was received there, and by his head striking against a projection of rock. Taking into account the distance from the rail to point of rock hit, the width of locomotive cab beyond the rail, and tipping of the locomotive from elevation given the outer rail, the clear distance between window of cab and the rock was about one foot nine inches. Therefore he must have had his head far out. There was a hot box on the engineer's side of locomotive tender and he was probably watching that when his head struck the rock. The rock cut is small, and a few blasts would remove enough to make it safe. I would respectfully recommend that this rock cut be widened, to make sufficient clearance for safety.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

XI.

IN THE MATTER OF AN ACCIDENT TO TRAIN NO. 10, ON THE LAKE SHORE AND MICHIGAN SOUTHERN RAILWAY, NEAR WESTFIELD, N. Y., MARCH 5, 1899.

April 17, 1899.

Report by the Inspector:

In the matter of the accident to train No. 10, on the Lake Shore and Michigan Southern Railway, near Westfield, N. Y., March 5, 1899, I have made an inspection, and respectfully submit the following report:

An east-bound freight train on the Lake Shore and Michigan Southern Railway, which arrived at Westfield station at 10.22 p. m., March 5, 1899, proceeded to run in on what is known as No. 1 north siding. After the train was on the siding, locomotive No. 79 was disconnected and ran ahead past a trailing point switch connecting that siding with another, known as No. 2 north siding, to which it was intended to run the locomotive. When at the position indicated, past the switch connecting Nos. 1 and 2 north sidings, the front end of the locomotive was about at the frog in the main track, thus partly covering the main track as well as the siding. While thus obstructing the main track (at about 10.50 p. m.), a fast east-bound express train, known as No. 10, consisting of locomotive No. 154, one mail car, one buffet car, four sleeping cars and one passenger coach, running about forty-six miles an hour, collided with the side of locomotive No. 79, at about the front end of the tender, forcing it from the track and overturning it. Locomotive No. 154 was also derailed, and with the entire train following ran on the ground to the west-bound main track, tearing up about two hundred and fifty feet of the same. It then continued over to a west-bound siding, on which a freight train was standing, struck the train, and derailed two cars in it. The locomotive then broke away from the train and turned completely around, stopping about four hundred and seventy-five feet east of the point of collision. The mail car was forced past the locomotive down a small embankment and stopped clear of the main track on the north side. The other cars remained on the roadbed, but were all derailed and somewhat injured. Both locomotives were badly wrecked. The following persons were injured: Harry Turner, engineer of train No. 10, right elbow dislocated, head cut and bruised and limbs slightly scalded. James Kirtland, fireman of No. 10, compound fracture of left leg, face and body bruised and seriously injured. Gilbert Thompson, engineer of locomotive No. 79, injured about head and otherwise seriously injured. L. L. Griffin, postal clerk, back wrenched. Asa Perin, postal clerk, right shoulder and arm bruised. T. H. Whitbeck,

postal clerk in charge, right side above hip wrenched. John Titterington, postal clerk, left side of face and right arm bruised. R. S. Weisler, postal clerk, back wrenched. Henry Kirk Howry, of No. 1 Broadway, New York city, slight injury to hand; shocked. George Snappen, passenger, of St. Louis, slight wrench of neck and back. Frank M. Jobson, passenger, of Philadelphia, slightly shocked. E. A. Foster, passenger, of Dunkirk, badly shaken up but only slightly injured. H. S. Hubbard, baggageman on train No. 10, right arm lamed and shocked. W. H. Johnson, Wagner car porter, slightly lamed in right groin. That so few persons were injured and none killed seems almost incredible when the rate of speed, obstruction and course taken by derailed train after collision is considered. The railroad company has done much to protect trains at this place. A train at any point on the main track in the yard or any switch which is set for a track other than the main track within its limits, immediately displays a danger signal nearly a mile west of the station and two miles from the place of accident. But in this case locomotive No. 79 was not on the main track and no main track switch was thrown. There was, therefore, nothing to warn the engineer of train No. 10 that any obstruction was in the way of his train; in fact, the signals showing safety gave him to understand the way was clear. His train was practically on time, being but three minutes late, and he no doubt was trying to make up for the three minutes lost. The track was straight for miles, and he could see the rails through and beyond the yard, but locomotive No. 79 on siding headed east showed no signals to train No. 10 approaching, and yet without disturbing any main track, switch or device for giving warning of danger was standing in a position offering a most serious obstruction. Had the engineer of locomotive No. 79 exercised reasonable care the accident would not have occurred. He had been long in the service, was familiar with the locality and knew the yard and tracks thoroughly. Also, had he looked, he could have seen the train approaching for at least two miles. Locomotives very frequently have occasion to go from one of these north sidings to the other and cannot do so without obstructing the main track, just as in this case, owing to the short distance between the main track switch and the switch connecting the two sidings.

Your inspector respectfully recommends that the switches and tracks at the point where the accident occurred be changed so that a locomotive on one of the sidings desiring to go upon the other may do so without obstructing the main track. I also strongly urge that any other tracks similarly situated be changed in like manner.

A copy of the inspector's report was sent to the company, with a recommendation that the changes suggested should be made. Under date of April 14, this Board received a letter from the company, stating that the changes recommended by the Board, had been made.

XII.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NEAR DOBBS FERRY, ON THE EVENING OF APRIL 19, 1899, RESULTING IN THE DEATH OF ROBERT SLOAN, ENGINEER.

April 22, 1899.

Report by Inspector:

In the matter of the death of Robert Sloan, engineer, New York Central and Hudson River Railroad, who, in some unaccountable manner, fell from locomotive near Dobbs Ferry on the evening of April 19, 1899, receiving fatal injuries, I have made an investigation, and respectfully submit the following report:

Train No. 35, a special mail, on the New York Central and Hudson River Railroad, left Grand Central station on time, at 9.15 p. m., April 19, 1899. The train consisted of eight cars, and was drawn by locomotive No. 898. The engineer was Robert Sloan, and the fireman John Farrell. As the train was approaching Dobbs Ferry the fireman, who had been putting in a fire, got up onto his seat to ring bell for the station. As he did so he saw the engineer get down from his seat, but paid no attention to what he was doing and did not see him afterwards. After the train had run about a mile the fireman got down and put in another fire; then went back again to ring the bell for Irvington station. Noticing that the engineer did not blow the whistle for Irvington, he went around to his side of the engine and discovered he was not there; he looked at the cab windows and found they were closed; then went back onto the tank and looked for him there; also on the platform of the first car. Failing to find him, he stopped the train near tower No. 22, Irvington, and reported the loss of the engineer. Soon after word was received that he had been found at Dobbs Ferry. The train then proceeded on its way.

The train passed Dobbs Ferry at 9.50 p. m., one minute late, and was running about forty-five miles per hour. At about 10.10 p. m. E. J. Connors, night towerman at Dobbs Ferry, was approaching the track near the tower; he heard a noise, which he thought was a dog growling; could not see anything, but went in the direction of the sound and found the body of a man, which proved to be that of the missing engineer, lying in the space between south-bound main track and the center track. He was badly injured, about the head and otherwise, and was alive but unconscious. The body was removed from where found sufficient to clear passing trains and a physician sent for, who arrived about five minutes previous to the engineer's death, which occurred at about 10.55. The body was then taken to the station, and later, after

being viewed by the coroner, was sent to New York city, where Engineer Sloan resided.

Your inspector was unable to find the cause of Engineer Sloan falling from the locomotive. He first struck the ground, apparently, on his head, on the fireman's side of the engine, about one hundred feet east from where a water column is between the track on which the train was running and the center track; the body rolled or bounded along the ground from the point where it first struck, about ninety feet. The water column referred to cleared the side of the locomotive cab a little less than two feet, and it is possible for a man to lean far enough out to hit it. There were no marks upon this column, however, to indicate that anything had hit it, and it is not probable that it had anything to do with the accident.

XIII.

IN THE MATTER OF AN ACCIDENT AT A GRADE CROSSING OF THE
LEHIGH VALLEY RAILROAD, KNOWN AS THE BAILEY CROSSING,
ABOUT ONE MILE EAST OF RED CREEK JUNCTION.

April 22, 1899.

Report by Inspector:

February 5, 1899, at about 7.25 a. m., Percy Brown, driving one horse attached to an uncovered milk wagon, in attempting to cross the Rochester and Hemlock Lake branch of the Lehigh Valley Railroad, at what is known as the Bailey crossing, about one mile east of Red Creek junction, was struck and killed by engine No. 645, drawing train No. 7. The train was about one hour and seven minutes late and running about forty miles per hour; was running west and Mr. Brown was driving north on his way to Rochester. At coroner's inquest the engineer stated that he sounded the whistle at the whistlepost and the bell was rung from that point all the way to the crossing. The fireman testified that he first saw the conveyance when it was about thirty feet from the track. At that time the horse was running. He could not see if the driver was hurrying the horse or if he had hold of the reins. The horse was killed and wagon demolished. The body of Mr. Brown was found about five feet from track, on south side, and fifty feet west of crossing. At time of the accident weather was clear and fine. A diamond shaped crossing sign is located in plain view at the crossing and whistleposts are stationed 80 rods from the crossing, where the law requires whistle to be blown

or bell rung. The highway crosses the railroad at an angle of about sixty-five degrees, and is practically level with the track on both sides of the railroad. This is not a main thoroughfare, although considerably traveled. A storm fence, eight to ten feet high, on side of railroad from which Mr. Brown approached, prevented him seeing the approaching train until he was within about thirty-five feet of the track, at which point train could be plainly seen for one-third of a mile before it came to the crossing. The storm fence extends for a long distance east from the highway and for several hundred feet west from highway on the south line of company's land and about thirty-five feet from the track, and prevents a person approaching the crossing from the south seeing an approaching train until within about thirty-five feet of the track. The railroad track is straight for at least a third of a mile east and a half mile west of the crossing. An orchard and a barn on the south side of railroad, east of the highway, would slightly obstruct the view of approaching west-bound trains from a person coming to the crossing from the south, but the storm fence is all that renders the crossing really dangerous. Coroner's jury rendered following verdict: "We find that Percy Brown came to his death, on the day of February 5, 1899, in the town of Henrietta, by being accidentally struck by passenger train No. 7 of the Lehigh Valley Railroad, at what is known as the Bailey crossing. Owing to the many obstructions, such as barns, orchards and snow fences obstructing the view of approaching trains at this point, we would respectfully recommend that the Lehigh Valley Railroad Company place a flagman at this dangerous crossing."

Your inspector recommends that a flagman be placed at the Bailey crossing of the Lehigh Valley Railroad or that the storm fence be removed where it interferes with the view of approaching trains. (The removal of the storm fence will take away the dangerous element and render this crossing safer than the average crossings now unprotected.)

A copy of this report was sent to the company, with a letter recommending that a flagman be placed at the crossing, or that the storm fence which was there be moved far enough back as not to interfere with the view of approaching trains. The company notified the Board that it had removed that portion of the storm fence at the crossing which interfered with the view of approaching trains.

XIV.

IN THE MATTER OF AN ACCIDENT TO LOCOMOTIVE ENGINE No. 1327 OF THE ERIE RAILROAD COMPANY, NEAR CAMERON, N. Y., ON SAID RAILROAD, FEBRUARY 2, 1899.

April 24, 1899.

Report by Inspector:

As directed by the Board, I have made an investigation of the accident to locomotive No. 1327, on the Erie Railroad, near Cameron, N. Y., on February 2, 1899, and beg to submit the following report:

A way freight, extra, No. 1327, running west on the Erie Railroad, stopped at Cameron station about 12.25 a. m. February 2, 1899. Brakeman Melvin McCormack, who had been riding on the locomotive until the train was approaching the station, when he went back on the train to assist in making the stop, uncoupled the locomotive from the train, supposing the stop was to take water and that the locomotive would draw ahead to the water tank for that purpose. He then got on board and was standing in the coal space on the tender, when the engineer, C. F. Salmon, came back on the ground, climbed into the gangway and said to the fireman, F. M. Chamberlain: "I can't get any water into the boiler and we will have to dump the fire right here right away." The fireman started to do this and had given the grate one shake, when the fire-box doors burst open and fire and steam rushed out. Fireman Chamberlain was thrown some distance, receiving so severe injuries that he survived but a few hours. Engineer Salmon was thrown to the ground and badly bruised and scalded. Brakeman McCormick was thrown over the top of the tender upon the east bound track and was considerably bruised and scalded.

At the time the investigation was held, Engineer Salmon was not in condition to be questioned. Brakeman McCormick was not so badly injured, and was able to give some information. He stated that he rode on the locomotive from Addison until approaching Cameron, a distance of 13 miles. He conversed with the engineer when near Rathboneville, 8 miles east of the place of the accident, and did not see him or speak to him afterward until the train was stopped and the engineer came back to direct the fireman to dump the fire. He heard nothing said previous to that time about any difficulty in getting water into the boiler. When on the locomotive he rode on the opposite side from the engineer, and could not see him, as the boiler was between them. Locomotive No. 1327 has what is known as the Wooten fire-box, and the engineer and fireman have separate cabs, and cannot see or con-

verse with each other when in their regular positions. Neither the conductor or any of the brakemen heard any complaint from the engineer regarding the working of the injectors, and all of them saw him at different times. After the accident the injectors were found closed, showing no effort was made at that time to use them. There was about twenty-six inches of water in the tank, showing no scarcity of water supply. An examination of the locomotive boiler and fire-box showed that the crown sheet had been forced away from the stay bolts and crown bolts from excessive heat, and the steam escaping through the hose, the crown bars and stay bolt holes did the damage that caused the injury to the men. The crown sheet was not cracked nor mud burned and was apparently in first-class condition. The crown sheet dropped down because there was no water on it. As to whether the engineer could not get water into the boiler, or if for some reason he neglected to notice it was low until too late to make the attempt, I was unable to ascertain, but in either case he was at fault for not having the fire dumped before the crown sheet became bare, which was the cause of the accident.

In addition to the report of its inspector, the Board had a thorough examination of the engine made by Mr. J. H. Van Buskirk, of the motive power department of the New York Central and Hudson River Railroad Company, who made an elaborate report, agreeing in essentials with the report of the inspector.

XV.

IN THE MATTER OF AN ACCIDENT ON THE LEHIGH VALLEY RAILROAD,
NEAR CAYUTA, FEBRUARY 10, 1899, IN WHICH MARTIN SHEEHAN,
ENGINEER OF LEHIGH VALLEY ENGINE NO. 750, WAS KILLED.

April 26, 1899.

Report by Inspector:

In the matter of the death of Martin Sheehan, a Lehigh Valley engineer, who was struck by some obstruction on the morning of February 10th, near Cayuta, I have made an investigation, and respectfully submit the following report:

A Lehigh Valley east-bound fast freight train, No. 542, drawn by locomotives No. 604 and No. 750, was slowing down, approaching Van Etten junction, February 10th, at about 6.30 a. m., when fireman on locomotive No. 750 noticed injector blowing back into the tank. He went forward to engineer's cab to ascertain the cause, and found the engineer, Martin Sheehan, lying against the side of the cab, with head, arms and part of shoulders out of the

window, bleeding from wound in left temple and unconscious. The train was stopped, the engineer removed to the caboose, and taken to Sayre, where he died without regaining consciousness. Locomotive No. 604 was the leading engine and had pipes connecting with air brakes on the train coupled up. Locomotive No. 750 was a helper and air pipes were not connected. The fireman of locomotive No. 750 was in the engineer's cab and conversed with him after passing Alpine station, and about two and one-half miles east of Cayuta heard the injector put on, which would indicate that the engineer was all right at that time; noticed nothing after that to show what engineer was doing until he went forward and found him injured. Locomotive No. 750 is what is known as a "Mother-Hubbard" engine, and the engineer's cab is forward and separate from that occupied by the fireman. Engineer's cap was found on the ice, at a bridge about three and one-half miles east of Cayuta station, and approximately one mile east of where fireman heard the injector put on; front of cap was split, and particles similar to material of which cap was constructed found adhering to a rivet in end post of the bridge, indicated that injury was received at that place. Train ran about seven miles, after passing this bridge, before injury to the engineer was discovered.

The tracks at the bridge are on a 2-degree curve, and east-bound track is on inner side of the curve. The distance from center of east-bound track to end post of bridge at point where marked rivet is located is 7 feet $\frac{1}{4}$ inch. Cab of locomotive No. 750 is 9 feet $5\frac{1}{4}$ inches wide, or 4 feet $8\frac{3}{4}$ inches from center line of track; this would leave 2 feet $3\frac{5}{8}$ inches clearance, but the outer rail is elevated $4\frac{1}{2}$ inches, which leans the locomotive towards the end post of bridge $8\frac{1}{2}$ inches at height of cab window, and reduces the clearance to 1 foot $7\frac{1}{8}$ inches. The engineer evidently had his head out of the window, watching his train, and failed to see the bridge. The bridge is iron, and about $86\frac{1}{2}$ feet span; with inclined end posts, and is built on a skew. The tracks on the bridge are located so that the center line between them very nearly averages midway between the trusses, but being on a curve, and the bridge on a skew, causes the track to be about 3 inches closer to the end post at west end of the bridge than the one at east end. This can be remedied by changing the alignment so as to provide same clearance at west end as now at east end, thus gaining 3 inches more room. The elevation given the outer rail ($4\frac{1}{2}$ inches for about a 2-degree curve) appears excessive; think 3 inches would be ample; this, if changed, would add $2\frac{1}{2}$ inches more to the clearance, making total clearance 2 feet and $\frac{3}{8}$ inches, sufficient to be reasonably safe.

Would respectfully recommend that above suggested changes be made.

The recommendations of the inspector were made, the recommendations of this Board, and the company notified. The company replied that the track would be changed at the bridge in question, so as to secure an additional clearance at the west end post on east bound track of five and one-half inches.

XVI.

IN THE MATTER OF AN ACCIDENT WHICH OCCURRED AT THE JUNCTION OF LEXINGTON AVENUE AND ONE HUNDRED AND TWENTY-FIFTH STREET, NEW YORK CITY, ON APRIL 15, 1899.

April 27, 1899.

Report by Electrical Expert:

I have investigated an accident which occurred at the junction of Lexington avenue and One Hundred and Twenty-fifth street, and submit the following:

On March 15th, at 11.54 a. m., car No. 526, north bound on the Lexington Avenue line, D. E. J. Kilker, conductor, and Henry Blank, motorman, collided with Third Avenue cable car No. 432 of the One Hundred and Twenty-fifth street division, Bernard Cooligan, conductor, and Edward Everett, gripman, and resulted in tearing the fender off and derailing the front wheels of car No. 526, breaking the guard rail and damaging the second panel from the front of car and throwing car No. 432 from the track. No passengers on either car were injured.

The statement of the conductor of car No. 432, One Hundred and Twenty-fifth Street line, is as follows:

"On my 11.52 a. m. trip west from East river at Lexington avenue a north bound car of the Lexington Avenue line ran into my car, breaking the guard rail and damaging the second panel from front of car, tossing car off track and throwing a lady from her seat."

The conductor of the Lexington avenue car makes the following statement:

"On March 15, 1899, I was conductor of car No. 526, bound north on Lexington avenue. At 11.54 a. m., my car came to a stop at the south crossing of One Hundred and Twenty-fifth street. Two or three passengers got off. I gave two bells and the car started. When we approached the Third avenue tracks a van was bound north on the east side of the car, shutting from my motorman's view an approaching west bound Third avenue cable car. I gave a bell; at the same time my motorman reversed. The Third avenue car shot across, tearing off our fender and striking our

bumper. The front trucks of the Third avenue and front wheels of our car jumped the track. They were both gotten back on the tracks in six minutes. There were five passengers in my car, none of whom were hurt. There were about fifteen on the Third avenue car; none of these were injured."

The motorman of the Lexington avenue car, Henry Blank, makes the following statement:

"At 11.54 a. m. I stopped at the south crossing of One Hundred and Twenty-fifth street; got two bells and started ahead. A van was moving north on the east side of the tracks, about even with the front of my car, shutting out my view of the Third avenue tracks. I got a sharp bell and put on my reverse. A west bound Third avenue car went across in front of me, pulling off my fender and striking my bumper. The front wheels of mine and the Third avenue car were derailed, but were gotten on the tracks again in six minutes. Nobody was injured on either car. There were six passengers on mine and about fifteen on the Third avenue."

After a thorough investigation of this accident I find that the crew of the Lexington avenue car were at fault and their operation of car No. 526 was the cause of the accident. They came to a stop at the south side of this crossing to let off passengers and then started ahead and ran into the Third avenue cable car No. 432.

The safe operation of cable and electric cars of the weight and size of those operated over this crossing can only be accomplished by every precaution possible being taken to prevent accidents at this point.

To prevent a re-occurrence of the collision at this crossing, I would recommend that all cars on the One Hundred and Twenty-fifth Street line, in either direction, come to a full stop before proceeding over the Lexington avenue tracks; that all the cars on the Lexington Avenue line cross the One Hundred and Twenty-fifth street tracks with power shut off and at a rate of speed not to exceed 4 miles per hour.

This recommendation is based upon the conditions of traffic as they exist over this crossing at the present time, and is deemed necessary for the protection of the traveling public at this point, and it is made regardless of any rights which priority of track construction may carry with it.

XVII.

IN THE MATTER OF AN ACCIDENT ON THE ROCHESTER AND IRONDE-
QUOIT RAILWAY, WHICH OCCURRED ON SUNDAY, APRIL 30, 1899.

May 15, 1899.

Report by Electrical Expert:

With J. D. Shultz, your steam railroad inspector, I have investigated an accident which occurred on the Rochester and Irondequoit Railway and submit the following:

The Rochester and Irondequoit Railway extends from North street in the city of Rochester to the Sea Breeze station on Irondequoit bay, a distance of 6.42 miles. This is a single track road constructed with 56, 50 and 40 pound T rails. On Sunday, April 30th at 2.55 p. m., at what is known as the Ridge Road curve, an accident occurred which resulted in the death of Charles Werner and John Helberg, and the injury of 19 persons. The accident was caused by the derailment of the first car in the train going north. This train consisted of engine No. 2, one closed and two open cars. Adam Zimmer, engineer, William Cooper, fireman, conductor Howard, brakeman Harry Butterfield. This train left North street station at 2.41 and was due to leave at 2.30, making them 11 minutes late from this point. The curve at which the derailment took place is about one mile from this station. At this curve there is a flag station where trains stop on signal to take on and let off passengers.

Between the North street station and the Ridge road curve and 800 feet south of the curve there is a grade of 1.9 per cent descending to it. This grade and the curve is constructed with 56 pound T rails. This train was equipped with a vacuum braking system and also on either end of each car there was a hand brake which was connected to the brake levers which were operated by the vacuum system. The closed car, which was a combination smoking car would seat 50 people and the open cars had a seating capacity of 75. The closed car was lighted by oil lamps and heated by a Sheppard Coach stove.

Engine No. 2, which had been in use about 22 years, weighed 18 tons. This road is not operated during the winter season, and the engines and cars were housed during that time, and were thoroughly overhauled and repaired this spring before being put in commission. There is one section foreman and four men employed during the summer season on the track of this company.

The wheel base of the trucks of the closed car were 4' 6"; between centres of trucks 26 feet. The post measurement of the body of car 36 feet, length of car over all 41 feet. In either door

of this car was a warning to passengers not to stand on the platform. This same notice was placed over the platform of the open cars.

The curve where the accident occurred is at the corner of North avenue and the Ridge road. It is an irregular one, much the sharpest at the point of derailment. The change in direction in this curve is 90 degrees in about 300 feet and at point of derailment is a 45 degree curve. From the south point of the curve in the first 100 feet there is a rise of $2\frac{1}{4}$ inches; in the second 100 feet to the point of derailment a rise of 9 inches; in the third hundred feet a rise of $11\frac{1}{4}$ inches, showing that there was a slight up grade from the south end of the curve to the point of derailment. The elevation of the curve varies from 2 inches at either end to $4\frac{1}{2}$ inches at its centre and was $3\frac{1}{2}$ inches at the point where the wheels left the track.

The gauge on the curve was fair, being slightly increased at the point of derailment, as it should be. There is an inside guard rail the entire length of the curve. After the accident the rails were found to be in perfect condition, no displacement of them or no broken fish-plates or bolts.

When the closed car left the track it tipped over on its side and slid in this condition about forty feet. The rear trucks were hanging to the car bottom and the forward ones were behind the car and lay with the end of the open car resting on them, detached from the car body and across the track. The closed car was badly broken up and a piece of the flange of the forward north wheel of the first truck, about eleven inches in length, was broken off.

The second car, which was an open one, lay with its forward trucks off the rail, with the wheels on the south side of rails. This car did not tip over, but the front platform was demolished, and the rear truck was drawn back so that the king-pin bolt was out of place. The open cars were equipped with side platforms and these were torn off from the first one. The train was equipped with bell cord and the engine was stocked with sand.

The cars and engine are inspected by a machinist named Louis Frank, who is stationed at the North street depot for that purpose. The air brakes are tested before leaving the North street station on every trip, for the reason that in the yard at the North street station there is quite a grade and the brake must be applied to hold the train at this point. At the Sea Breeze end of the line the hand brakes are used for switching purposes in changing the engine from one end of the train to the other.

Submitted with this report is the more important testimony taken at the coroner's inquest, held to determine the cause of this accident. By this testimony it is shown that engineer Zimmer

had been at work for this company for a period of two weeks and the conductor, Howard, had been in the employ of the company for the last two seasons; it shows that this train was over-loaded to the extent that when the engineer whistled for brakes the conductor and trainman, who were employed taking up tickets, could not get through the cars to reach the brakes, the platforms of the closed car, as well as the side platforms of the open ones being filled with passengers. The officials of the company claim that this condition of over-crowded cars cannot be prevented, as the trains after leaving the North street station run through North street at such a rate of speed that men and boys can board the train on the street, that the train crew are unable to keep them off.

The engineer claims that he tried to use the vacuum brake while going down the grade before approaching the curve, and could produce no vacuum; that he then reversed his engine and whistled for brakes, but that the train kept increasing its speed until it reached the curve when the accident occurred.

From the testimony and a careful examination into the circumstances connected with this accident, I find that it was caused by the train going around this curve at too high rate of speed. This was the result of one of two causes; either the engineer did not apply his brakes in time to reduce the speed before reaching the curve, or as he states, the brakes did not work, and when he called for the hand brakes there was no response from them.

I find that the flange of the forward wheel on the north side of the car which was derailed was broken at the point where the accident occurred, but am in doubt as to whether this wheel was broken before or after the derailment. The prominent marks which should appear on the rail if the wheel had broken and made a revolution before leaving the tracks are not visible.

The investigation of this accident has shown that the company was operating their road without a printed set of rules governing employees. It further shows that three cars trains which are over-loaded to the extent of passengers occupying the end platforms of closed cars and the side platforms of open ones, are being operated; that a conductor and one trainman compose the crew of such trains. To prevent a recurrence of similar accidents on this road I would recommend that the company prevent their trains from being over-loaded, and that no passengers be allowed to ride on the platforms of any car; that one trainman be placed on each car in a train, in addition to the conductor; that on special days where the conductor is not able to get through the train, that another man be placed on the train with him to help take up tickets, and that in no case should the trainman or men be employed for this purpose; that the company prepare and furnish

each employee with a printed set of rules governing their operation, and that these rules limit the speed of trains on curves to 8 miles per hour.

A copy of this report was sent to the company, with a letter making the recommendations of the electrical expert the recommendations of this Board. The Board received a letter from the company, stating that it had passed into the hands of a receiver, but that the report of the electrical expert had been handed to its superintendent and the receiver, and that the recommendations of the Board would be carried out.

XVIII.

IN THE MATTER OF AN ACCIDENT ON THE LONG ISLAND RAILROAD,
ON THE NIGHT OF JUNE 12, 1899.

June 15, 1899.

Report by Superintendent Grade Crossing Bureau:

On June 12th there were two special trains chartered to run from Far Rockaway to Long Island city; one of them was to leave Far Rockaway at 9.45 p. m. and one at 10.45 p. m. The first train left at 9.45, on time, making the trip successfully. The other train received orders to run extra, the orders being of the usual kind; it left Far Rockaway on time, making the stop at Arverne and Hammel's junction as per orders, and reaching the latter point at 10.56, or 8 minutes after regular train 1348 passed Hammel's. Train 1348 left Far Rockaway on time, reached Hammel's on time, is due at Goose Creek at 10.57, and was on time at that point. The engineer of the special knew that No. 1348 was ahead of him, and, according to his orders, was to keep out of the way of all regular trains, and, according to the rules, was to observe the difference of time between his running time and that of the regular train ahead. There are no station employees at Goose Creek station.

The regular train consisted of engine No. 305, coaches 70 and 105, and combined car 516, and had at Goose creek about thirty passengers. The extra train consisted of engine No. 55, a combined car and coach, and had 79 passengers. The extra train ran into the rear end of the regular train just as the latter was getting into motion in leaving Goose Creek station. Engine 55 did not seriously damage the rear end of the coach she struck, but coach 105 was driven into coach 70 (which was next to the engine of the regular train), about twelve feet, tearing out the ends of both cars. The pilot of engine 55 was broken and its tank frame was bent.

Superintendent W. F. Potter immediately went to the scene of the accident with a car and the railroad surgeons. A crew from Far Rockaway was ordered to the scene, to transfer the passengers and bring them to their destination. The surgeons found no one seriously injured, no bones being broken. There were seventeen passengers slightly injured, the injuries consisting of slight flesh wounds, bruises or scratches. All the injured walked to their homes upon arrival at Long Island city, except one man, who complained of a sprained back and was sent home in a carriage. The conductor and head brakeman of train 1348 were cut and bruised, and were hurt more than any of the others.

The engineer of engine 55, hauling the extra train, states that he was fully aware that train No. 1348 was running ahead of him and making the stops, and that he saw their markers or tail lights in ample time to stop. He had 2 miles of straight track ahead after leaving Hammel's; the weather conditions were not unfavorable, although a fog was beginning to form. Superintendent Potter states that when he arrived at the wreck, two hours after it occurred, he was able to see lights three-quarters of a mile away. The rails were moist and, therefore, slippery, and the conditions for making a quick and short stop most unfavorable. The engineer says that he made an application of air, then a second one, and reversed his engine, and adds that it was over so quickly that he does not know how it happened. Some newspapers have stated that the marker lights were not burning. This is not so. The markers for regular trains on the Long Island Railroad are two red lights. They had not been disturbed when Superintendent Potter arrived, and they were burning then, while both the engineer of the extra and the conductor, who happened to look ahead just before the collision, admit having seen them. The conductor of the extra, your inspector is informed, also applied the brakes from one of the coaches, as soon as he saw the danger. There seems to be no excuse for the accident. It was the result of miscalculation and poor judgment on the part of the engineer of engine No. 55. The air brakes were in working order, as a stop was made at Arverne, a few miles away, when they were all right. The approach to the station is not governed by any signals, the operation of trains being entirely according to dispatcher's orders and the rules of the company.

The engineer of the special, L. Schurr, has been employed by the Long Island Railroad Company as fireman for 6 years, and for the last two summers has served as engineer, running all over the system without a mishap of any kind. Superintendent Potter states that his record until now is perfect, and that his habits are exemplary.

A more favorable point for avoiding a rear end collision, especially in clear weather, could hardly be imagined. The trestle carrying the track over Jamaica bay is about four miles long, and straight. Fortunately, this accident happened at a station where there was a planked floor. The same kind of an accident, however, could occur at any other point on the trestle, and the danger to life would then be greatly increased. In foggy weather, the liability of collision is also much greater.

The recommendation is, that both tracks, for the full length of the trestle, be equipped with Hall, automatic, track circuit, normally danger, signals, forming blocks from 1 to 1½ miles long, or some equally good signal, in order to provide for all conditions of rail and atmosphere. If such a system of signals had been in existence on the night of June 12th, the accident would probably not have happened, as the special train would have been compelled to stop at the next rear signal.

XIX.

IN THE MATTER OF ACCIDENTS ON THE FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD, AT A HIGHWAY CROSSING KNOWN AS DENNIE'S CROSSING, NEAR GLOVERSVILLE.

June 24, 1899.

On March 4, 1899, and on June 23, 1899, respectively, a man was killed at a crossing of the Fonda, Johnstown and Gloversville Railroad, known as Dennie's crossing. The Board sent inspectors to the point in question to investigate these accidents, and to ascertain from the local authorities if an application would be made by them to abolish the grade crossing, under the grade crossing law. No application, however, has been made.

XX.

IN THE MATTER OF A COLLISION BETWEEN A BOSTON AND ALBANY RAILROAD TRAIN AND A NEW YORK CENTRAL AND HUDSON RIVER RAILROAD TRAIN, AT RENSSELAER, JUNE 7, 1899.

June 26, 1899.

Report by Superintendent Grade Crossing Bureau:

Boston and Albany train No. 32, consisting of engine and 8 cars, leaving Albany at 12.45 a. m. for Boston, collided on June 7th with a New York Central and Hudson River freight train at Rensselaer; 7 freight cars were either wrecked or derailed, Boston and Albany engine No. 206, which was drawing No. 32, was badly

damaged, and the front end of the baggage car, which was immediately behind the engine, was demolished. N. Smith, a Hudson River division brakeman, was standing on top of the freight car and jumped to the ground as soon as he saw that a collision was inevitable. He received several unimportant bruises, and was the only person who was at all hurt.

The Boston and Albany Railroad uses the tracks of the New York Central Railroad from Albany to Rensselaer. At Rensselaer its tracks leave those of the New York Central and run in a southeasterly direction, crossing New York Central side track No. 1, as shown on the attached tracing. The movement of trains from the bridge to the south bound Boston and Albany tracks is governed by the lower blade of the two-arm home signal, as shown. On the night of June 7th a freight train had just been made up at Rensselaer and was about to proceed north. The train was standing in such a position as to block both Boston and Albany tracks, and train No. 32, having received the proper signal, ran into the side of this train, causing the wreck.

There is apparently no person to blame for this accident. The interlocking system was incomplete, thus allowing the towerman to bring two trains to an intersecting point at the same time. The freight train had received permission to stand where it was, and the Boston and Albany train had permission to proceed. Had the ability of the towerman to clear the lower blade of the signal been contingent upon there being nothing at the crossing point to block the Boston and Albany train, the accident obviously could not have happened, and it is, therefore, this which should be provided for, for the future. An inexpensive and probably the best way of accomplishing this result, is to place a detector bar on one rail of the siding at the point of crossing with the Boston and Albany tracks, and to attach this bar to the lever governing the lower blade of the signal, or to attach the bar to a separate lever and arrange the interlocking in such a manner that the position of the signals governing the approach to the crossing will depend upon the detector bar at the crossing. This will involve no electrical apparatus, and, therefore, will be to no extent automatic; it will be entirely mechanical, and, therefore, desirable.

Your inspector would hence recommend that the crossing be supplied with a detector bar, as explained above, such detector bar being interlocked with the signals governing the approach to the point of crossing.

The Board recommended to the railroad company that the crossing be supplied with a detector bar, as suggested by the superintendent of the grade crossing bureau. The company informed the Board that: "We had arranged to further protect this crossing by detector bars, interlocking the signals, so that it will be impossible to throw the signals for safety while the crossing is occupied."

XXI.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NEAR SAVANNAH, ON FEBRUARY 20, 1899, IN WHICH FIREMAN CHARLES ODELL WAS KILLED.

June 27, 1899.

Report by Inspector:

On February 20th, at about 5.22 a. m., as an extra east-bound fast freight, drawn by locomotive No. 702, was passing Savannah on No. 1 track of the New York Central and Hudson River Railroad, Fireman Charles Odell either fell from the engine or was knocked off by some obstruction, receiving injuries resulting in death. The first marks upon the ground indicating where he fell, were found opposite Savannah station, and the body was picked up about three hundred and fifty feet east from that point. The first marks would indicate that he was clinging to the side of the engine, as they were but slight and from thirty to fifty feet apart, and close to the rail of No. 1 track, looking as though simply his feet touched the ground. One hundred and fifty feet from where the body was found he apparently fell to the ground and rolled, or was dragged, the remaining distance. His left leg was crushed and he was otherwise injured. The leg was amputated at Savannah and he was taken to Syracuse on the train to which he belonged and died soon after arriving there. No one saw the accident. He had been fixing the fire. The engineer saw him turn toward the gangway and disappear. The train was stopped as soon as possible, backed to the point where he was missed and the body found as stated. No inquest was held.

About three hundred feet west from where first marks were found upon the ground there is located, between No. 1 and No. 2 tracks, a mail crane, which at that time was set for delivering the bag to a train on No. 2 track. When so set the bow of the crane would clear the cab of the locomotive on No. 1 track only 9 $\frac{1}{4}$ inches. No marks were found upon the crane to indicate that it had been hit, and it is doubtful if Fireman Odell did hit it. The morning was very dark, and it is probable that after fixing the fire, being somewhat blinded by the glare, he stepped to the gangway and either missed his footing or slipped from the train. A soldier who had his head out of car window was hit and slightly injured by this crane about a month ago, and about five years ago a Wagner car conductor had his arm broken by hitting it. No. 1 and No. 2 tracks should be spread at point where this mail crane is located, sufficiently to allow at least 2 feet clearance to locomotive or train on No. 1 track. The tracks are on about one degree curve, and by flattening the curve of No. 1 track slightly, the neces-

sary room can be provided at small expense. Would recommend that this be done.

The Board recommended to the company that the tracks at the point in question be spread so as to give the clearance suggested by the inspector. The company, under date of June 25, 1899, notified the Board that the tracks had been spread so as to give standard clearance at the point in question.

XXII.

IN THE MATTER OF AN ACCIDENT WHICH OCCURRED ON THE BROOKLYN BRIDGE, JULY 13, 1899, TO A BROOKLYN HEIGHTS RAILROAD CAR.

July 18, 1899.

Report by Electrical Expert:

I have investigated an accident which occurred on the Brooklyn bridge and submit the following:

On July 13th, at 12.23 p. m., car No. 442, Edward Manning, motorman, and Charles Itlych, conductor, of the Gates Avenue line, running to New York, collided with a wagon on the New York end of the Brooklyn bridge, between the tower and the New York station. This wagon was proceeding to the New York end of the bridge, going in the same direction with car No. 442, and was driven by G. A. W. Schlatter. Besides the driver, there was Emanuel Feller and the son of Schlatter in the wagon. The wagon, which was a short distance ahead of the car, pulled out on to the track to pass an express wagon and in doing so was struck by the car. The accident resulted in the death of G. A. W. Schlatter and the injury of Emanuel Feller who received several contusions and a broken rib; the son of Schlatter was not seriously injured.

Edward Manning, the motorman of car No. 442, says that he is 30 years of age, resides at No. 266 Wyckoff avenue in the Borough of Brooklyn, and employed as motorman by the Brooklyn Heights Railroad Company. On July 13, 1899, about 12.23 p. m., I was in charge of car No. 442 of the Gates Avenue line, going over the bridge to New York, and about midway between the iron structure of the bridge, or where we left the plank and the bridge building, a light business wagon, single horse, with two men and a boy in it, turned right short in front of my car, within twenty feet of the car. It was down grade at this point. My car was proceeding between seven and eight miles per hour and before I could stop the car it struck the wagon at the front wheel, knocking the horse down and throwing the two men out; the boy remained on the wagon. One of the men fell off the wagon, ap-

parently on his head. The car was stopped right away. A passenger and myself helped the man who was injured on to the car which carried him to the loop, where I was arrested by an officer and taken to the Fourth precinct station house, Brooklyn. Another motorman relieved me of my car at New York. No part of the car or fender hit either of the men. The boy was not injured. At the time of the accident, I was using no power and had the car under control of the brake.

Motorman Manning has been employed as motorman by the company since May 26, 1898.

I find that car No. 442 is an open car 36' 11" over all, with 13 seats; is equipped with two W. P. 50 motors, with K-2 controllers; has the ordinary single chain brake equipment; has sand boxes and fenders. The grade in the bridge at this point, descending to New York end, is 3.16 per cent; that this car, which had a clear headway, was proceeding at a good rate of speed down the grade, with power off; that this, and other wagons, were moving along in the same direction the car was going, on the wagon road which is at the right of the tracks on the bridge, when this driver suddenly pulled his horse over on to the tracks for the purpose of passing an express wagon which was ahead of him, and before the motorman could stop his car it struck the wagon.

The accident was clearly caused by the driver of the wagon not keeping on the driveway, and if he wished to pass a wagon he should have taken the precaution to see that the track was clear of cars before trying to do so.

I have no suggestion to offer which would prevent the recurrence of an accident under similar conditions, except to say that with a more efficient braking system than that now employed this accident might possibly have been prevented.

XXIII.

IN THE MATTER OF AN ACCIDENT WHICH OCCURRED ON THE FLATBUSH AVENUE LINE OF THE BROOKLYN HEIGHTS RAILROAD COMPANY, JULY 13, 1899.

July 18, 1899.

Report by Electrical Expert:

I have investigated an accident which occurred on the Flatbush Avenue branch of the Brooklyn Heights Railroad system, and submit the following:

On July 13, 1899, at 2 p. m., car No. 682 of the Flatbush and Brighton Beach line, Motorman James H. Vandeusen, Conductor

J. Morphy, going from New York, ran into a wagon carrying three people, at about the middle of the Park hill on the Flatbush avenue near Malbone street, instantly killing one of the persons, William Anderson, H. Koch receiving a fracture of the skull and has since died in the hospital. The third man, E. Rockefeller, was quite seriously injured. The Motorman, James H. Vandeusen, has made the following affidavit:

That he is 29 years of age, and resides at No. 1001 Flatbush avenue, Brooklyn, New York; that he has been employed as motorman by the Brooklyn Heights Railroad Company for the past six weeks; that on the 13th day of July, while engaged as motorman of car No. 682 of the Flatbush Avenue line, going towards Flatbush, he had proceeded on the avenue about half way between the main entrance to the Park and Malbone street, and that as he proceeded he overtook a wagon which looked like a sign painter's wagon with three men in it, all seated on the one seat; that when he got within 25 feet of the rear of the wagon the driver suddenly turned to his left as if to go on the track ahead of him; that the driver, or either of the other two men, did not look around previous to so doing. He further says that as he proceeded towards this wagon he continually rang his gong so as to give them warning of his approach, and is positive that he rang the gong just before the wagon started on to his track; that he did not have any power on his car immediately preceding this accident, and had been sliding along with the brake partly on; that previous to the accident his car had not been going more than ten miles per hour; that he immediately reversed his car, set the brake, and did all he could to avoid the collision; that the left hind wheel had just barely got on track when his car struck the wagon. The reverse did not take and the wagon was pushed for some distance. After car was stopped, the horse and wagon were at the left of car but not entirely by it. He did not know who the three men on the wagon were, and has not since learned. He says that he had the reverse on before he touched the wagon, and applied the brakes and did all he could to avoid the accident; that there was no reason for the driver of this wagon to turn to the left as he did, as there was a clear road on that side of the street and no other wagon in the vicinity. The horse attached to this wagon was on a pretty good trot. An officer, who was in the vicinity, appeared shortly after the accident occurred and assisted him and the conductor in securing witnesses, and that he was then put under arrest. He says that he has resided in Brooklyn between eight and nine years and was connected with the barge office of the Government for five years.

James Tully, of No. 406 Myrtle avenue, says: "I was a passenger on the Flatbush avenue car when it collided with a

wagon on the east side of Prospect park, near Malbone street entrance. I was seated on the first seat. The car was going towards Bergen Beach. Three men were on an open wagon going in the same direction. They were driving on the side track, which runs next to the south-bound track for quite a distance. There was nothing in their way to make them leave this track, and nothing to prevent their seeing the car if they had looked, but they never once looked towards the car. The car was running fast. I had not the slightest idea that they would change their course, but when we were within 100 feet of them they started to pull into our track. I knew that it was impossible to avoid a collision, as the distance was too short for the motorman to stop. He banged his bell hard and used all his strength on the brake, but could not stop in time. The car struck the wagon on the side, throwing the men out. The car went about fifteen feet after striking the wagon. When I saw that there was going to be a collision I braced myself by putting my feet against the dashboard, and bracing myself I hurt my back a little. By the action of these men I judged they had been drinking. I will testify for the motorman, as I do not think he could have avoided the accident."

Inspector M. Wulstein, who saw the accident, among other statements in regard to it, says that after the collision he picked up a tin can which still contained about a wine glass full of beer.

I find that car No. 682 is 35 feet 3 inches over all; has 12 seats; is equipped with Westinghouse No. 12A motors; is provided with sand boxes and fenders, and has the ordinary single chain, hand-brake equipment, which is in good condition. On Flatbush avenue, at the point of accident, which is 60 feet between curbs, there are two main line and two side tracks. At this point there is a $2\frac{1}{2}$ per cent. grade in the street descending to the southeast, the direction in which car was going. Motorman Vandeusen had been employed by the company in the capacity of motorman only six weeks. This wagon, which was going in the same direction with the car, on the side track, only about 100 feet ahead of it, made a short turn to the left, drawing in on to the south-bound track, on which the car was coming. As it was proceeding at a fair rate of speed, the motorman was unable to stop in that distance and struck the wagon.

The testimony of Tully, who was a passenger on the car, and of the Inspector Wulstein, tend to show that these men, or some of them, had been drinking. Tully's testimony corroborates that of the motorman that the people in the wagon did not look around to see if a car was coming when they turned from the side track on to the main line.

While this was a very serious accident, resulting in the loss of two lives, I have no recommendation to make which would prevent a recurrence of an accident under similar conditions. It is very difficult to stop a car of this character, loaded with passengers, going down a grade $2\frac{1}{2}$ per cent. and running at a rate of 10 miles per hour, in less than 100 feet, with the braking system at present employed.

XXIV.

IN THE MATTER OF AN ACCIDENT AT A GRADE CROSSING OF THE SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD, NEAR ITS CHENANGO BRIDGE STATION, ON JANUARY 3, 1899.

July 24, 1899.

On January 3, 1899, Orbey Keeler, a farmer, aged 64, started to drive across the Syracuse, Binghamton and New York Railroad tracks at a crossing near the Chenango Bridge station of said company and was struck and killed by a passenger train. The Board made a careful investigation of this accident, and recommended that the crossing be properly planked to a width of not less than 32 feet, and that the station building be moved so as to afford a better view of the railroad to travelers on the highway. After considerable correspondence with the company, it notified the Board that the station building had been moved and that the planking would be completed in a short time.

XXV.

IN THE MATTER OF A COLLISION AT THE UTICA STATION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, ON THE MORNING OF MAY 13, 1899.

July 25, 1899.

Report by Inspector:

In the matter of a collision at Utica station of the New York Central and Hudson River Railroad on the morning of May 13, 1899, resulting in the death of Harry B. Neat, assistant superintendent of the Wagner Palace Car Company, of Buffalo, N. Y., I have made an investigation, and respectfully submit the following report:

Train No. 33 of the New York Central and Hudson River Railroad, consisting of locomotive No. 942, 2 express and baggage

cars, 2 coaches and 5 sleeping cars, left Albany, west bound, at 12.10 a. m. May 13, 1899, and arrived at Utica on time, at 2.30 a. m. The train was due to depart from Utica, westward, at 2.33 a. m., but was delayed at the station until 2.35 a. m., at which time the train was ready to proceed. The conductor was just ready to signal his engineer to go when train No. 31, Special American Express, consisting of locomotive No. 918, 10 express cars and 1 coach, ran into the rear of train No. 33 at a speed of 20 to 25 miles per hour. The force of the collision was so great that the locomotive entered the rear car of train 33 about half of its length, then tipping on its side; stopped; the first express car of train 31 was crushed and the pieces of the car and its contents were strewn about the locomotive and the tracks in its vicinity; the two following cars were forced past the locomotive and stopped on their side, badly damaged; the remaining cars of train 31 were not seriously damaged, nor were the remaining cars of train 33 injured to any extent. The rear car of train 33 was the Wagner sleeper "Pokanoket." In this car were three persons, Henry S. Sprague, J. H. Brown and Harry B. Neat; the two first named were in their berths in forward part of the car and escaped injury. Mr. Neat, who entered the train at Utica, was in the smoking compartment at rear end of the car and received severe injuries, resulting in death a few hours after the accident. The post mortem examination made by Dr. John C. Slawson, house surgeon at Faxon Hospital, showed that death was due to shock, and that the lungs were congested, caused by inhaling steam.

Train 31 was due to leave Albany at 11.55 p. m. May 12, but owing to delay on the Hudson River division did not leave until 12.25 a. m. May 13, 15 minutes after the departure of train 33. Both were fast trains, and not scheduled to stop between Albany and Utica. Train 33 did not stop between those points; train 31 was stopped and held three or four minutes at block signal tower No. 25, located a short distance west of Little Falls, until train 33 cleared the block ahead. This must have given the engineer of train 31 to understand that his train was gaining on the one ahead, and should have caused him to use caution when approaching Utica station, where he knew train 33 had to stop for water and to leave and take on passengers, baggage and express matter. That he did not use caution is shown by the evidence of his fireman at the coroner's inquest, to the effect that the engineer said to him when passing Schuyler Junction ($3\frac{1}{2}$ miles east of Utica), that the time was 2.31, and that train 33 would not leave Utica for two minutes, then running the train so fast that the $3\frac{1}{2}$ miles was run and the collision at Utica station made 4 minutes later at 2.35. The rate of speed must have aver-

aged about 50 miles per hour for the $3\frac{1}{2}$ miles. Trains in Utica yard, as well as Albany, Syracuse, Rochester and some other large yards are not controlled wholly by the block signal system. Those places are treated as terminals and trains are allowed to "bunch" there. Block signal tower No. 30, located about one mile east of Utica station, holds the block until west-bound trains approaching that station passes Park avenue crossing, about 1,500 feet east of the station, when his signals are released, and he then gives clear signal to train following, allowing it to proceed, and the train at the station is protected by a yard semaphore signal located about 2,100 feet east of the station and operated by a lever, wire connected with the signal, located about 400 feet east of the station and in charge of a switchman whose duty it is to set this signal to position indicating danger as soon as a west-bound train enters the station, and to keep it in that position until the train has departed or has cleared the main track. The signal tender at block tower No. 30 testified that after train 33 passed he held the block until the train passed Park avenue crossing and his signal was released; that he then set signal to show clear block to following train, which was train 31, and that his signal did show clear when train 31 passed. The switchman, Michael Buckley, whose duty it was to set the yard signal to protect train 33 at the station, testified that he did so immediately upon the arrival of the train, and that when he heard train 31 coming he crossed the tracks to No. 1 track (about 25 feet), where he could see the signal, and that he saw it was in proper position to show danger. The engineer of train 31, John Purcell, and his fireman, Charles A. Bowman, both testified that the yard signal showed white light, showing safety and indicating that the station was clear, and that they had no notice of danger until within 50 to 75 feet of the rear of train 33, and that they saw the train and some parties giving stop signal with white light at same time, but too late to do anything to prevent the collision. No other parties were found who saw the yard signal at the time train 31 passed. James W. Bates, a trainman on train 31, who looked at the lever which controls the yard signal six or eight minutes after the collision, testified that he found it in position for the signal to be set at danger. John Campbell, a switch tender, who was near the yard signal when train 31 passed, testified that he looked at the signal as soon as he heard the collision and that it showed red light, indicating danger.

From the conflicting testimony your inspector is unable to determine whether the yard signal was set against train 31 or not, but is satisfied that the train was running too fast into the station for safety, and probably would not have been able to stop until past it, even had train 33 been out of the way.

The approach to Utica passenger station from the east is very obscure. The tracks curve to the left to clear freight house and yard, then curve to the right after passing freight house, to get into passenger yard, then to the left again just east of the station. Therefore it is impossible for an engineer to see an obstruction on the track ahead until close upon it and too late to stop before striking it, unless his train is running very slowly. Trains do not run slowly coming to the station from this direction; therefore the yard signal is practically all the engineer has to depend upon for information as to condition of track ahead. The removal of the freight house to another location would admit of change of the passenger tracks so as to make the approach to the station from the east practically straight, and afford an unobstructed view to trains approaching from that direction.

Your inspector respectfully recommends the removal of the freight house and straightening of the tracks. If this is not done, would recommend, as an alternate plan, that an additional tower be built at the east end of the passenger yard, equipped with an interlocking machine and governing the switches leading to the yard tracks with the proper signals. By means of rail insulation and the installation of proper electric locking appliances, the signals to each yard track could be so arranged that it would be locked when train is on this track, thus preventing the towerman from permitting another train occupying the same track. In case of switching, when it is found necessary to have the track occupied by more than one engine or train, entrance to the track could be governed by a green flag or light given by the towerman. This permission should, however, be confined strictly to switching when speed of engine or train is necessarily slow.

The recommendations of the inspector, in the alternative, were made the recommendations of the Board, and the company was asked to notify the Board which of them it would comply with. The company notified the Board: "We have already taken measures for putting in an auxiliary signal at Utica, which will meet the recommendation of your inspector in that direction. Sometime in the future, we expect to remove the freight house and straighten the tracks at Utica."

XXVI.

IN THE MATTER OF AN ACCIDENT AT THE JAMAICA STATION OF THE
LONG ISLAND RAILROAD COMPANY, ON AUGUST 7, 1899.

August 19, 1899.

Report by Electrical Expert:

I have investigated an accident that occurred at the Jamaica station of the Long Island Railroad Company on August 7, 1899, and submit the following:

This accident was caused by a collision between two passenger coaches, 250 feet west of the Jamaica station, at 5.57 p. m.

There are four passenger tracks at the station; one a west-bound main line, another called the west-bound Brooklyn track and two east-bound tracks. Two trains were standing at the station; one was east-bound train No. 61, from Long Island City to Moriches; the other was the Brooklyn connection of that train from Flatbush to Jamaica. On the latter train was a passenger coach for the through east-bound train No. 61. A switch engine ran onto one of the east-bound tracks and took this through car off the Brooklyn train and went west with it over the cross-over switches and awaited the incoming of the East New York suburban train that was then due and which had the right of way over the cross-over. This train came into the station and, as usual, proceeded west from the west-bound main track onto the west-bound Brooklyn track; but before it had cleared the cross-over the switch engine backed the coach for east-bound train No. 61 into the last car of the suburban train. The corner post of the last car of this train was knocked in and about ten feet of the side taken out, breaking the windows.

One woman was cut by glass and taken to the hospital; a man had his thumb cut and four others were slightly injured by glass. The through car had fifty passengers, none of whom were hurt. The toilet-room corner of this car was jammed in.

John Harrington was engineer of the switch engine; A. Decker, foreman of the switching crew; Thomas Connors, fireman; A. Magale and Frank Simon, switchmen. These men have been in the employ of the company for years, the foreman of the switching crew having at one time been yard master in Jamaica yard.

The accident was the result of carelessness on the part of the switching crew in giving the engineer of the switch engine a signal to go ahead before the last car of the suburban train had cleared the cross-over switches.

At the point of accident the switches are operated by hand from the ground. The company is now putting in a pneumatic interlocking plant, made by the Union Signal and Switch Co., and the installation will be completed in about two weeks.

Submitted with this report are statements made by the engineer and fireman and the members of the switching crew; also blue print showing the location of the tracks at Jamaica.

While this accident did not result in loss of life, the conditions were favorable for more serious results. But with the interlocking plant in operation, a recurrence of a similar accident at this point will be impossible.

XXVII.

IN THE MATTER OF AN ACCIDENT ON THE PARK AVENUE LINE OF THE BROOKLYN HEIGHTS RAILROAD COMPANY, AUGUST 13, 1899.

August 22, 1899.

Report by Electrical Expert:

I have investigated an accident that occurred on the Park Avenue line of the Brooklyn Heights Railroad Co., on August 13, 1899, and submit the following:

At 2.12 p. m. car No. 796 of the Park Avenue line, Patrick Morkham, conductor, and Alexander McDonald, motorman, bound toward Canarsie, ran into the side of a train of the New York and Canarsie steam railroad, breaking the fender and platform of the electric car. No one was injured.

I find that car 796 is an open car, equipped with the ordinary hand brake and sand boxes; that there is no grade in the electric tracks at the point of crossing; that there were about fifty passengers in the car at the time of the accident; that the motorman was appointed July 25, 1899, and had been thoroughly broken in as a motorman on this division. The conductor had been in the employ of the Nassau road from the time it commenced operation until the recent strike; he was reappointed on July 28, 1899.

As stated in my communication in regard to protection at crossings of steam and electric roads, this crossing is protected by gates, which were temporarily out of service. There is also a flagman stationed at this point.

I find that the accident was the result of the motorman's "losing his head," and that he did not notice the steam train until it was nearly on the crossing; that he then tried to reverse the power without first shutting it off. As the reverse is inter-

locked with the controller-lever, he could not do this, and thus was unable to stop the car with the brake while the power was on. The car struck the side of the train and kept bumping against it until the train had passed, when the car proceeded across the steam tracks before being brought to a standstill.

XXVIII.

IN THE MATTER OF ACCIDENTS OCCURRING ON RAILROADS OPERATED BY THE BROOKLYN HEIGHTS RAILROAD COMPANY ON JULY 29, 30, 31, AND AUGUST 1, 2, 6 AND 7, 1899.

August 29, 1899.

The electrical expert of this Board made an investigation of many accidents which occurred upon lines operated by the Brooklyn Heights Railroad Company, on July 29, 30, 31 and August 1, 2, 6 and 7, 1899. This was during the period of labor troubles on the line in question. It is not deemed necessary to print the reports of the electrical expert here. Copies of the reports were sent to the Brooklyn Heights Railroad Company, with a letter, of which the following is a copy:

ALBANY, August 29, 1899.

C. L. ROSSITER, Esq., *President Brooklyn Heights R. R. Co., No. 168 Montague St., Brooklyn, New York City:*

DEAR SIR.—Our inspector, Mr. C. R. Barnes, has investigated seventeen accidents that occurred on the lines of your system from July 29 to August 7, both dates inclusive. In a few of these accidents it is evident that the injured persons were at fault; but it would seem from the inspector's report that many of these accidents could have been avoided by proper care and precaution. It is evident that a prolific source of accidents is the carelessness, inexperience or inefficiency of the motormen. In one serious case, reported as above, the motorman had been employed in that capacity only four days. In another case our inspector remarks, "This was a very serious accident, resulting in the injury of several persons. It shows that none other than experienced motormen should be allowed to run passenger cars." Many accidents are caused by the motorman starting the car before receiving the proper signal, or by the conductor giving the signal to start when a passenger has one foot on the step and the other on the ground.

Your attention is called to section 42 of the Railroad Law, in regard to the qualifications of conductors and motormen, and to the thorough examination required as to their habits, physical ability and intelligence; and also to section 159, whereby you are required to inform this Board of every accident resulting in loss of life, or injury to persons, immediately after its occurrence. Enclosed herewith you will find copies of nine reports of our inspector, and the recommendations of the inspector are made the recommendations of the Board.

The Board is not unmindful that during the period covering these accidents your company was laboring under the disadvantages incident to labor troubles.

By the Board,
JOHN S. KENYON,
Secretary.

XXIX.

IN THE MATTER OF A GRADE CROSSING ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, AT CANASTOTA, AUGUST 14, 1899.

September 15, 1899.

Report by Superintendent of Grade Crossing Bureau:

In regard to the accident at Canastota on August 14, resulting in the death of four persons, I respectfully submit the following report:

On August 14th a wagon containing William Ainsworth and his two sons, William and Thurber, aged respectively fifteen and eight, and Robert Hall, all of Fabius, were killed at the Main street crossing in the village of Canastota by New York Central train No. 11.

Train No. 11 is known as the Southwestern Limited, and leaves Albany at 4.20 p. m., and is due at Canastota at 7.19, but did not pass the station on this day until 7.34. The train was, therefore, just fifteen minutes late. It consisted of two mail cars, one buffet car, two sleeping cars, one drawing room car and two coaches. The number of the engine was No. 895 and the train was in charge of the following crew: Engineer Amenzo Carroll, of Albany; Fireman A. Saulsbury, of Albany; Conductor C. H. Compton, of Buffalo; Brakeman E. M. Kniffen, of Brockport; Brakeman H. Pongo, of Buffalo; Baggage-man F. Ray, of Croton.

Main street crossing, where the accident occurred, is about 700 feet west of Canastota station and is well traveled, at least during the day time. Both West Shore and New York Central tracks cross the street within 120 feet of each other, and the tracks of both railroads are protected by gates operated by a gateman in a tower situated about midway between the tracks. The New York Central tracks over the crossing are the four main line tracks and one siding on the south side of No. 1 track. The gates are operated from 6.30 a. m. to 6.30 p. m. There is a high crossing sign near the gates on the south side of the tracks, with the ordinary lettering, the letters being distinct and of the proper size.

Mr. and Mrs. Ainsworth and family were moving to Utica and had engaged two wagons to move themselves and household effects. One wagon was driven by William Branch and the other by Robert Hall, both of Fabius. They approached the crossing from the south and were proceeding north. Branch's wagon was ahead of the other, and riding with him were Mrs. Ainsworth and daughters. On Hall's wagon, besides himself, were Mr. Ainsworth and his two sons. As far as can be ascer-

tained, neither of the drivers had made use of alcoholic drinks during the day. No particular precautions seem to have been taken by either driver in crossing the tracks. The view to the east is not particularly good on account of the gate tower, the block signal tower, a tool house and numerous telegraph and railroad cable posts. At a distance of 75 feet from the crossing one can, for a moment, see a distance of about 1,200 feet. This view becomes shortened as the tracks are neared, particularly on account of the signal tower. There were no cars on the siding, to further obstruct the view. Branch's wagon passed the crossing in safety, and it is said that he called back to Hall to stop, because there was a train coming. Hall spurred on his horses, then hesitated a moment, seeming undecided whether or not to proceed, and the wagon at that instant was struck and completely demolished. When the train stopped, 1,200 feet from the point where the air was applied, two bodies were on the engine and two other bodies, badly mangled, were found near the crossing. The horses broke loose from the wagon at the instant of collision, and were not injured. The furniture with which the wagon was loaded was scattered in all directions.

From the dispatcher's sheet at Albany it was ascertained that train No. 11 passed Oneida at 7.30 and Canastota at 7.34. The distance is fully 5 miles. The train was, therefore, running at a speed of 75 miles per hour.

About 850 feet east of Main street is Peterboro street, the main street of Canastota, and about 3,200 feet east of Main street is the overhead crossing of the Lehigh Valley Railroad. The engineer of No. 11, just after passing under this bridge, blew one long blast for the station. When 900 feet east of Peterboro street he blew four blasts, the usual signal for a highway crossing. When near Peterboro street he saw a team starting across the tracks at Main street going very slowly. He immediately opened the whistle and blew short alarm blasts, and was just about to let go of the whistle, knowing that he was going to clear the wagon, when the fireman called "we are going to hit them." He then saw the heads of the horses of another team coming on to the tracks. He, therefore, kept on blowing the alarm whistles, but the team seemed to move no faster, and just as the horses were over track No. 3 and the wagon over track No. 2 the collision happened, the wagon being hit right in the center. The engineer shut off and applied the brakes at emergency, and stopped in about 1,200 feet. Some of the passengers were thrown from their seats when air was applied. The bell was ringing continuously for 2,000 feet before Main street crossing was reached, and the headlight was burning brightly.

XXX.

IN THE MATTER OF A GRADE CROSSING ACCIDENT ON THE NEW YORK, ONTARIO AND WESTERN RAILWAY, TWO MILES SOUTH OF ONEIDA, SEPTEMBER 23, 1899.

September 30, 1899.

Report by Inspector:

In the matter of the grade crossing accident which occurred on the New York, Ontario and Western Railway, at what is known as the Cheese Factory crossing, about two miles south of Oneida, September 23, 1899, I have made an investigation and respectfully submit the following report:

On September 23, 1899, at about 5.25 p. m., Mrs. Asenath Stisser, aged about seventy years, who was riding in a covered carriage, drawn by a single horse, in attempting to cross the New York, Ontario and Western Railway, at what is known as the Cheese Factory Crossing, about two miles south of Oneida, was struck and instantly killed by locomotive No. 16, drawing train No. 9 of the New York, Ontario and Western Railway. Mrs. Stisser was driving in an easterly direction, and train No. 9, which consisted of a locomotive and four cars, was north bound. The highway crosses the railroad at an angle of about forty-five degrees, and is comparatively level for a considerable distance each side of the track. At the crossing there is conspicuously located a diamond-shaped crossing sign, painted white and lettered in black, with nine-inch letters of proper proportion, reading "Railroad crossing, look out for cars." Eighty rods in each direction there are also placed both whistling and ringing posts. The engineer, fireman and a trainman who was riding on the engine at the time of the accident all state that the whistle was blown at the proper place and the bell rang from that point until the train reached the crossing. None of the men on the locomotive saw the carriage until it was within fifteen feet of the track, the locomotive then being forty to fifty feet from the crossing. When the fireman observed it the top of the carriage was up and the horse trotting slowly. The engineer did not see the horse or carriage, and did not know anything was wrong until he heard the crash. He immediately applied the brake, and stopped the train about six hundred feet from the crossing. From the statement of the trainmen, the rate of speed was about forty to forty-five miles an hour when the accident occurred. Mrs. Stisser was thrown about sixty feet and the top of her head crushed; the horse was also killed and the carriage demolished. The body was put in the baggage car and carried to Oneida.

This is not a dangerous crossing. The railroad track is straight for more than one-quarter of a mile in each direction. Approaching the railway from either way, trains can be seen at least one-quarter of a mile from any point on the highway within several hundred feet of the track. In the direction from which this lady approached, at three hundred and fifty feet distant, a train can be plainly seen one-quarter of a mile before it reaches the crossing, and at no place between that point and the crossing is the view in any way obstructed.

The cause of the accident was evidently the failure of Mrs. Stisser to notice the approaching train, which she could readily have done had she taken the precaution to look before driving upon the track.

XXXI.

IN THE MATTER OF A COLLISION ON THE AUBURN BRANCH OF THE
NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, NEAR
AUBURN, SEPTEMBER 26, 1899.

September 30, 1899.

Report by Inspector:

In the matter of the accident on the Auburn branch of the New York Central and Hudson River Railroad, near Auburn; September 26, 1899, I have made an investigation and respectfully submit the following report:

A regular west-bound passenger train, No. 263, left Auburn station at 5.50 a. m. September 26, 1899. The crew consisted of C. A. Martin, conductor; Thomas Dugan, engineer; Byron Nellis, fireman; R. J. True, baggageman, and Charles E. Persons, trainman. The train was a regular scheduled one, and consisted of one baggage car and two coaches, drawn by engine No. 1131, and was made up at Auburn. There were no passengers on the train leaving Auburn. A stop was made at the crossing of the Lehigh Valley Railroad, on Monroe street, and two passengers, Michael Moore, of Rochester, and Miss Lois R. Bennett, of Auburn, got on the train. As the train was leaving Monroe street a man was seen standing upon the front platform of the baggage car, but he did not enter the car and none of the trainmen knew of his presence. This man was afterwards found to be James E. King, of Skaneateles. When about one mile from Monroe street this train met, on the main track, and collided with an east-

bound freight train, No. 292, which consisted of locomotive No. 364, with thirteen freight cars and a caboose. The crew were: George Eighme, conductor; Emmet Lancot, engineer; J. G. Curry, fireman; F. J. Ludolph, George Ambrose and Frank Hall, brakemen. The trains met on a curve and in a cut where the view was so much obstructed that the men on the locomotives could not have seen the other train until within 600 feet distant, and too late to prevent the collision. The cabs of both locomotives were demolished and the tank of the passenger locomotive was driven back through part of the baggage car. Three cars of the freight train were destroyed and three others considerably damaged. Emmet Lancot, engineer, and J. G. Curry, fireman of the freight train, and James E. King, who was riding on the platform of the baggage car, were caught in the wreck and killed. Baggage man R. T. True was so badly injured that he died in a short time. Engineer Thomas Dugan and B. Nellis, fireman of the passenger train, and Brakeman F. J. Ludolph, of the freight train, jumped or were thrown from the train and were considerably cut and bruised. Trainman Charles E. Persons, of the passenger train, was in the baggage car and received some injuries. Miss Bennett was cut about the face and head by broken glass, and also bruised and shocked. No other persons were injured.

The investigation shows that the responsibility for the accident rests entirely upon the crew of the freight train. It was running upon the time of the passenger train, which had the right of road. About four miles from the place of the accident, the freight train went upon a siding to meet a west bound freight, and while there waiting for that train the conductor and flagman (according to their testimony at the coroner's inquest) entered the caboose and went to sleep and did not wake until the freight passed and their train had ran the four miles and collided with the passenger train. Therefore, it appears that the engineer started from the siding when he should have remained for the passenger train to pass, without orders, and he was, therefore, mainly responsible. The conductor should not have permitted himself to go to sleep on duty, and is also responsible, having been careless and negligent. All the trainmen were furnished with time tables and the rules governing the movement of trains, which, if obeyed, would have prevented the accident.

XXXII.

IN THE MATTER OF AN ACCIDENT ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, AUGUST 24, 1899, ONE MILE SOUTH OF MARCY.

November 1, 1899.

At 5.15 p. m., August 24, 1899, Lester Grant, a brakeman, employed on the Mohawk and Malone Division of the New York Central and Hudson River Railroad, while walking over the top of freight train No. 680, was instantly killed by striking an overhead bridge. Upon inquiry from the company, the Board was informed that the tell-tales at the bridge in question were in good condition.

XXXIII.

IN THE MATTER OF AN ACCIDENT ON THE LONG ISLAND RAILROAD, AT GREAT NECK, JUNE 22, 1899.

November 13, 1899.

On the morning of June 22, 1899, light engine No. 9 of the Long Island Railroad, while running over the round house track to the main line, at Great Neck, was run into by train No. 300, west-bound. Upon inquiry by the Board, the company notified it that the terminal had been changed from Great Neck to Port Washington, resulting in the doing away with the liability of such an accident in the future.

XXXIV.

IN THE MATTER OF AN ACCIDENT ON THE LEHIGH VALLEY RAILROAD, SEPTEMBER 16, 1899, AT WHAT IS KNOWN AS THE CREAMERY CROSSING, NEAR BERKSHIRE, N. Y.

December 15, 1899.

On September 16, 1899, at 4.10 p. m., while Frank Robinson, Homer Robinson and John Shepard were driving across the Lehigh Valley Railroad, at a point known as the Creamery crossing, fifty rods north of Berkshire, they were struck by a Lehigh Valley train. Homer Robinson and John Shepard were instantly killed; Frank Robinson was badly injured. An investigation of this accident was made by Commissioner Baker of this Board, who reported, recommending that an addition which had been added to a milk station building near the crossing, should be removed and that freight cars should not be allowed to stand upon the siding,

on the west side, so near the highway as to obstruct the view of the main line. These recommendations were made the recommendations of the Board, and the company was notified. The company replied that the addition to the milk station building had been removed, and that orders had been given that no freight cars be placed on the siding west of the main track, near the crossing, for loading or unloading.

XXXV.

IN THE MATTER OF AN ACCIDENT WHICH OCCURRED ON THE PROSPECT PARK AND CONEY ISLAND RAILROAD AT ITS JUNCTION WITH THE BAY RIDGE DIVISION OF THE LONG ISLAND RAILROAD, AT PARKVILLE, ON SEPTEMBER 28, 1899.

December 15, 1899.

Report by Electrical Expert:

I have investigated an accident that occurred on the Prospect Park and Coney Island Railroad at its junction with the Bay Ridge Division of the Long Island Railroad at Parkville on September 28, 1899, and submit the following:

At 11.10 a. m., a west-bound Long Island Railroad train consisting of eight freight cars drawn by engine No. 120, Thomas Murphy, engineer, and John Carroll, conductor, struck south-bound electric car No. 487 of the Prospect Park and Coney Island Railroad, John Tammany, motorman, and Thomas Burns, conductor. The engine struck the front of the electric car and threw it against an iron trolley post, killing William Clemmons, age 40, of Hamilton avenue, Brooklyn, and an unknown boy of 14 years of age, and injuring the following persons:

Richard Braham, age 27, of 426 Fourth avenue, abrasion of the right leg and concussion of the thigh.

Charles Bedell, age 53, of 80 Bond street, scalp wound.

John Tammany, 1414 Bergen street, fracture of the ribs.

Frank Gallagher, 2450 Eastern Parkway, arm injured.

I examined the engineer and crew of the steam train and the conductor of the trolley car, but was unable to get a statement from the motorman. Their testimony is submitted with this report.

From such testimony and a personal inspection of the point of accident, I find that at the Parkville junction the double tracks of the Bay Ridge Division of the Long Island Railroad cross the double tracks of the Prospect Park and Coney Island Railroad,

forming a diagonal crossing. The latter road was formerly operated by steam, but is now operated by electricity. On the south side of the crossing there is a double "Y" and on the northeast side a single connection. All these switches are operated from a tower that stands on the southwest corner of the crossing. Home and Distant signals on the electric and steam tracks interlock with the switches, which signals and switches are shown on the blue print submitted with this report.

There is no passenger service on the Bay Ridge Division, it being used for freight business by the Manhattan Beach trains of the Long Island Railroad. Cars for Bay Ridge are taken from these trains at the Manhattan Beach junction and thence to Bay Ridge over this crossing. The amount of freight business varies at different seasons of the year.

The steam trains left Long Island City at about 10.20 a. m., and proceeded to Manhattan Beach junction, where the rear part of the train was left, the engine taking eight Bay Ridge cars over the Parkville junction. The home and distant signals were set at safety for the steam train, and at danger on the electric tracks. A house standing on the northeast corner of the crossing obstructed the engineer's view of the electric tracks until he was within twenty feet of the crossing.

The testimony of the engineer is to the effect that when he saw the electric car approaching he applied the brakes on the engine, reversed it and gave steam. The statement of the conductor of the motor car is to the effect that he left the Ninth avenue station at 11.00 a. m., and stopped at Lawrence street, which is the first street north of the crossing, at 11.10 a. m.; that he gave the motorman two bells to start; that he did not look at the signal to see if it was dropped; that he did not hear the train which is the first street north of the crossing, at 11.10 a. m.; that he did not know whether the motorman rang his gong or not before he started the car; that the fenders of the car had just reached the track of the crossing when he saw the engine coming from behind the house on the northeast corner of Gravesend avenue, the engine then being 40 feet from the car and approaching slowly, but the engine did not slow up until it crashed into the car. The tracks of both roads are on a straight line and level at this point.

I find that the towerman had the signals set against the electric car and at safety for the steam train; that the motorman ran by the home signal and on to the steam tracks when the signal was set at danger; that the engineer could not get a view of the crossing until within 20 feet of it, and that he ran over the crossing at the rate of six or seven miles an hour; that the eight cars

on the steam train were not equipped with air brakes, and that the engineer was unable to stop the train in time to prevent the accident.

While the switches and signals at the crossing are interlocked, the switches are not interlocked one against the other.

The day was clear and the rails were dry.

To prevent a recurrence of this accident, I would recommend that your honorable Board cause derails to be placed in the electric tracks on both sides of the steam tracks, and that such derails be operated by the conductors of the motor cars or by a towerman stationed at the crossing.

A copy of this report was sent to the company with a letter making the recommendations of the electrical expert the recommendations of the Board.

At the time of writing this report, the Board had not heard from the company in the matter.

XXXVI.

IN THE MATTER OF A COLLISION AT HOOSICK JUNCTION, ON THE MORNING OF OCTOBER 8, 1899, BETWEEN A FITCHBURG FREIGHT TRAIN AND A FITCHBURG PASSENGER TRAIN.

December 15, 1899.

Report by Superintendent of Grade Crossing Bureau:

In the matter of the collision at Hoosick Junction on the morning of October 8th, between a Fitchburg freight and Fitchburg passenger train No. 32, I respectfully submit the following report:

The Fitchburg Railroad is a double track railroad, but at many places the lines of the east-bound and the west-bound tracks do not parallel each other. This is because the present west-bound main track is the track of the old Troy and Boston Railroad, and the east-bound main the track of the old Boston, Hoosick Tunnel and Western Railroad. The Bennington and Rutland Railway crosses over the east-bound main Fitchburg track at Hoosick Junction and connects with side track, paralleling the west-bound main track near the bridge over the Hoosick River. Between this connection and the bridge there is a cross-over between the side track and the west-bound main track, and the point of the west-erly switch is but a few hundred feet from the east side of the Hoosick River bridge. The bridges of the two named tracks over the Hoosick River are, perhaps, eight to nine hundred feet apart, but the west-bound track curves east of its bridge so that at a point about 2,000 feet east of the river the tracks are only about 100 feet apart, the east-bound track remaining straight between

these two points. The station at Hoosick Junction is about 400 feet east of the river, and at a considerable distance from the east-bound main. The latter track, besides, is much lower here than the west-bound track, so that the east-bound trains in order to reach the station must run about 2,000 feet beyond the station and then back on a long siding, paralleling for some distance the west-bound main until the station is reached. At least seven regular passenger trains and several freight trains make this movement daily. The sketch attached to this report shows the tracks as they exist.

Train No. 32, consisting of engine No. 26, one mail and express combination car, one combination baggage and smoking car, one day coach and two sleepers, was due to leave Troy for Boston at 11.30 p. m., October 7th. However, it did not leave until 11.36, because the car of the Governor-General of Canada was expected, and would have been attached to the train had it arrived. The train arrived at Hoosick Junction just nine minutes late, and backed from its track on to the long siding, and on this siding to the station. After the train had stopped, a portion of the train was on the cross-over and a portion on the west-bound main, on the bridge, as the siding was available to the bridge only, on account of some freight cars which were standing on it. The approach of the west-bound track to the station is governed by a semaphore signal 1,300 feet from the bridge, and is always set at "danger" when the switches at the bridge are set for the cross-over. The view of the signal is unobstructed and it can be seen for at least one-half a mile. The east-bound track, likewise, is protected by a semaphore signal 1,500 feet from the switch, joining the east-bound main track and the long siding, while the approach on the siding towards this switch is also governed by a third semaphore. The last two semaphores are interlocked with the switch by means of a selector, so that the proper one of the two signals may be given when the switch is normal or reversed.

While train No. 32 was standing on the siding and cross-over extra train No. 105, with 50 freight cars, was approaching from the east. The first eight cars of this train were equipped with air brakes and these brakes were in use. The signal lights were all burning brightly. The brakes had been inspected at Williamstown. At Pownal, 16 miles from Hoosick junction, a stop was made, and at Petersburg junction, seven miles from Hoosick junction, the train was slowed down. In both instances the brakes worked all right, and Engineer Cole of the freight, admits that the brakes were in good working order when the accident happened. The crew of the freight was as follows: Engineer, J. C. Cole; fireman, G. N. Billings; conductor, S. W. Westcott; brake-

men, Arnold and Caswell. Engineer Cole, in approaching his signal, did not apply his brakes soon enough to enable him to stop at the semaphore controlling the west-bound main track. When very near the signal and running at a rate of not less than ten miles per hour, the fireman called to the engineer, "the signal is red." The engineer then leaned out of the window to satisfy himself as to the position of the signal, and, finding it to be red, applied the emergency brake. The momentum of the train, however, was so great as to carry it for 1,300 feet to the bridge, where the collision occurred.

Mr. Cole had been employed by the railroad company about two years, but was a comparative stranger on its western division, having previously to this one made only five trips over it. At the time of the accident Cole and his fireman had been on duty 15½ hours. The fireman had made only two trips. Cole, however, admits that he understood all signals, and that his semaphore was at danger, but claims he could not see it. When Mr. Snyder, superintendent of the western division, arrived at Hoosick junction, about two hours after accident, he could see the signal in question for a long way, and, as stated above, the view is unobstructed for at least one-half a mile. According to the rules of the Fitchburg Railroad, when an engineer cannot see his signals he shall take that as an indication that the signals are at danger and bring his train to a stop.

The engine of the freight struck the rear of the smoking car of the passenger train a glancing blow, overturning it, and then struck the coach, breaking its front end. Algernon Johnson, a passenger on No. 32, from Burlington, seeing that a collision would occur, ran to the rear platform of the coach and jumped from the train, probably not realizing that the train was standing on a bridge. He fell to the bed of the river, about thirty-five feet below, and died soon after from the effects of his injuries. Conductor Buckley, who was in one of the sleeping cars, was badly shaken up, but was not seriously injured. No other casualties were reported. The collision also threw the trucks of the mail car off the track.

Train No. 32 was in charge of the following crew: Engineer, Frank Curtis; fireman, T. Agen; conductor, J. Buckley; brakemen, Harrington and Dormady.

Just to the west of the bridge are two facing point switches from the west-bound main track. These, with the cross-over controlling the switch, constitute three switches leading from the main west-bound track. Mr. Snyder, the superintendent of the division, informed your inspector that an interlocking plant was under consideration for this locality—there certainly ought

to be one, and it is so recommended. Any interlocking plant should, however, be equipped with a proper system of derails, for it is evident that, even had such a system been in operation on the night of this accident and no derail had been provided for the west-bound main track, the accident would nevertheless have occurred. Properly, the system should also include the operation of the switch at the junction of the long siding with the east-bound track, with a derail in both siding and main track; sufficient safety could here be secured, however, by using a four way switch stand, the first lever to throw the connecting switch, the second lever to throw the derail on the main, the third lever to throw the derail on the siding, and the fourth lever, by means of a selector, the two signals governing the road over the connecting switch.

In order to prevent future accidents of this nature, the superintendent has also given orders to the agents to permit no more freight trains to stand on the siding near the bridge, so that the shifting in front of the station and trains backing into the station can be handled without interfering at all with the main line track.

A copy of this report was sent to the company, with a letter making the recommendations of the superintendent of the grade crossing bureau the recommendations of this Board. The company notified the Board that it would comply with said recommendations.

XXXVII.

IN THE MATTER OF AN ACCIDENT ON THE SYRACUSE, LAKESIDE AND
BALDWINSVILLE ELECTRIC RAILROAD, OCTOBER 13, 1899.

December 15, 1899.

Report by Electrical Expert:

I have investigated an accident which occurred on the Syracuse, Lakeside & Baldwinsville Railroad on October 13, 1899, and submit the following:

This road is of single track construction with turnouts, and extends from Syracuse to Baldwinsville, a distance of thirteen and one-half miles. Cars are operated over it on a thirty minute schedule.

At 10.52 a. m. closed car No. 14, bound from Syracuse to Baldwinsville, collided with closed ear No. 15 bound in the opposite direction, smashing the vestibules of both cars. The point of the collision was about seven miles from Syracuse.

The accident resulted in the injury of the following persons: Mrs. Frank W. Waggoner, No. 611 Onondaga street, left arm broken at the wrist, right leg broken below the knee, suffering from the shock. Mrs. William Gilbert, 700 East Fayette street, left leg broken, injured about back and head. Mrs. Isabella Medcalf, 413 East Fayette street, leg broken and hurt internally. George Mason, 105 Linden street, rib fractured and face badly cut. Mrs. Fake, Baldwinsville, bruised about the right side and hip. Mrs. M. Hill, 401 Prospect avenue, sprained ankle and suffering from shock. David W. Franklin, 407 North Geddes street, bruised about the face and body. Mrs. C. H. Johnson, No. 1,528 South State street, right hand cut by flying glass and two arteries severed. Clifford Johnson, 1,529 South State street, several teeth knocked out. Miss Edna Johnson, 1,529 South State street, bruised about the body. Mrs. George Sheridan, 401 Prospect avenue, both arms bruised. Mr. and Mrs. D. W. Ten Broeck and child, bruised slightly. Mrs. Worth, 110 Oakwood avenue, bruised about the body. Patrick Joy, head cut and bruised. Anna Irish, Onondaga Valley, bruised about head and face. Catherine Doyle, 117 Garfield avenue, bruised. C. H. Johnson, 1,529 South State street, wrist cut. Frank Lang, 711 Crouse avenue, bruised elbow and hand. C. F. Gay, 343 South Salina street, bruised about the body. Mrs. A. L. Walters, 134 Lincoln avenue, shoulder badly bruised. Mrs. Gillette, 134 Lincoln avenue, slightly bruised. Mrs. W. H. Harrison, Onondaga Valley, slightly bruised. David W. Franklin, 407 North Geddes street, slight cut. Motorman Dell King, slightly scratched. Motorman Frank Connolly, slightly bruised. Frank Waggoner, 611 West Onondaga street, hands cut.

I examined the motorman and conductor of car No. 15 and the motorman of car No. 14, the conductor of the latter car being in the hospital at the time of the examination.

Frank Connolly, motorman of car No. 14, says: "I have been in the employ of the company as motorman for over a year. On Friday morning, October 13th, I left Syracuse at 10.30, was to meet the regular car from Baldwinsville on the double track near Maple Bay. At this point I met a car which I supposed was the regular car and went ahead onto the single track. About 2,500 feet from the end of the double track, on a curve in the woods, I ran into the regular car No. 15. At the time that I saw the car I was running about 25 miles an hour. When I first saw it I was five or six hundred feet distant from it. I then applied my brake to the sixth point and worked the sandboxes. I should say I was running about ten miles an hour when the car struck. My car was equipped with an electric brake. The rail was dry at the time of the accident. I never had an accident before. There were 15

or 20 passengers in my car. The two front wheels of the front truck left the rails. It is a usual occurrence for me to meet the repair car on the switches."

David King, motorman of car No. 15, states: "I was employed by the company March 6, 1899, and previously to that worked for about five years on the Syracuse Rapid Transit system. On the morning of the accident I left Baldwinsville at 10.30, which was on schedule time. In the woods, on a curve near Maple Bay while running at about thirty-five miles an hour I discovered a car coming toward me. When I first saw the car I was 400 feet from it. I shut off power and reversed before I applied the brake; the wheels were moving backward at the time the brake was applied. I had sand, and used it. I jumped before the cars came together. The front end of my car was knocked in and the trucks were knocked from under the car body and left the track; all wheels were off. My car was equipped with a Price Friction brake."

Fred Pollay, conductor of car No. 15 states: "I was conductor of car No. 15; had five cash passengers and one employee. I was due at the double track switch at 10.52. This is my second season as conductor. The car brake was applied before we struck."

This accident was caused by motorman Frank Connelly, the motorman of car No. 14, mistaking a car which was used as a repair car for the regular car that he was to meet on the double track near Maple Bay. Believing that he had met the regular car at this point, he proceeded onto the single track and had gone about 2,500 feet when he collided the regular car.

The point of the accident is on a curve in the woods. A view of the track from the scene of the collision can be had in either direction for 600 feet. Car No. 15 was equipped with four 27 horse-power motors; the car complete weighs $11\frac{1}{2}$ tons. Car No. 14 was equipped with two 50 horse-power motors; weight of car $10\frac{1}{2}$ tons. Both cars have 28 feet bodies with $4\frac{1}{2}$ feet vestibules. Car No. 15 was equipped with a Price Friction brake, and No. 14 with a General Electric brake. The rail was dry at the time of the accident.

The rate of speed of cars on this road required that all possible safeguards be employed to prevent accidents. Therefore, I recommend that a system of lamp signals be installed, in such a manner that when a car is leaving a switch the conductor of such car must turn a switch that will light lamps at the next switch. That all cars be equipped with oil tail lights and red flags. That all special cars sent over the road be conspicuously placarded. That whenever such cars are sent out a notice be posted in the car barn, and that a copy of such notice be delivered to each motorman and conductor.

A copy of this report was sent to the company, with a letter making the recommendations of the electrical expert the recommendations of this Board. At the time of writing this report, the Board had not heard from the company in the matter.

XXXVIII.

IN THE MATTER OF AN ACCIDENT AT HOPEWELL JUNCTION ON THE NEW ENGLAND DIVISION OF THE NEW YORK, NEW HAVEN AND HARTFORD, OCTOBER 20, 1899.

December 15, 1899.

Report by Superintendent of Grade Crossing Bureau:

In the matter of the accident at Hopewell junction, on the New England Railroad, on the morning of October 20th, in which William Filbert, an employee, was killed, and several cars and one engine damaged, I respectfully submit the following report:

The accident was a head-on collision between regular west-bound freight train No. 1821, engine No. 1056, 25 cars, and extra east-bound freight No. 959, engine 959. The point of collision was at the yard limit sign, about 750 feet east of the switch leading to the east-bound yard.

Train No. 959 left Fishkill Landing at 2.30 a. m., and arrived at Hopewell at 3.30 a. m. After arriving at the yards the necessary switching was begun. In order to do this switching it was necessary to pull on the main line track for some distance for each shift. A flagman was sent ahead to a curve in a cut about 1,300 feet east of the yard limit sign, to warn approaching west-bound trains. The employees of both trains were well acquainted with this division of the railroad; they were familiar with the rules and the operation of trains, and were supplied with the railroad company's employees' time-tables. The engineer of regular No. 1821 was Norman Campbell, fireman, J. Collins, conductor, John Hallock, and brakemen, William Filbert, Morris Callahan and Walter McArthur. The engineer of No. 959 was Thomas Denny, conductor, Matthew Stark. Regular train No. 1821 left Hartford at 7.20 p. m. on October 19th. Of the 25 cars it carried, seven were equipped with air brakes, and these brakes were in working order; they were inspected at West Pawling, 11 miles from Hopewell junction, where the last stop previous to the accident was also made. The speed of the train was, as near as can be ascertained, about 12 miles per hour. The rules of the New York, New Haven and Hartford Railroad say that "engineers shall approach these yards with trains under full control." The flagman who was sent ahead to warn west-bound trains carried two lights, one red and one white. His

red light had gone out when No. 1821 was approaching, but his white light was burning, and with this he signalled the engineer of No. 1821, but no attention was paid to the signal. The fireman claims that at the time he was fixing his seat in the cab, preparatory to sitting down, and that he did not look ahead. Engine No. 959 was doing her switching within the yard limit, and the engineer just previous to the approach of No. 1821 had pulled on to the main line track; he was just starting to back at time of accident, the conductor being at the rear end of the train. The engineer of extra No. 959 noticed the regular train approaching, and presumed that the train was under control and would be stopped in time; he had no thought of a collision until the regular train was within probably 200 feet of the engine. He then sounded brakes, thinking to arouse the engineer of No. 1821 to his danger, but the latter did not apparently try to stop his train until he was within a few car lengths of the extra. The collision which followed damaged engine No. 1056 slightly, wrecked two freight cars of the regular train, and broke several draw bars. The exact time of collision was 4.15 a. m. William Filbert, brakeman, was on a car having end ladders, and was just descending when the shock came. The draw bars were shoved in and he was caught between the two cars. After two hours' work he was finally rescued and taken to the Matteawan hospital, where he died. No other injuries to employees were reported. The wreck was cleared at 10.28 a. m.

The crew of regular train had been on duty just nine hours. On their previous trip they arrived at Hartford at 1.30 a. m., and on this trip left at 7.20 p. m., which gave them a rest of 17 hours. There was no fog at the time, and the engineer could plainly have distinguished any signal. He had last passed the eye test prescribed by the company about four years ago. The damage to rolling stock amounts to about \$650.

In order to avoid pulling out on the main line track for each shift, the railroad company has begun the construction of a side track paralleling the main line track, so that the shifting can be done from this track as a base, instead of the main line track. The masonry work for the bridge which will be necessary to carry this track over Fishkill creek, which is within the yard limit, is finished, as is also the grading; all that remains to be done now is to erect the bridge and lay the track. The masonry work, as your inspector is informed, has been finished for some time, and the delay in placing this track is undoubtedly due to the inability of the railroad company to secure the delivery of the bridge. When this connection of the new siding with the main line track is made, there will still, however, as at present, be a facing point switch for west-bound trains, and it seems to

your inspector that additional safety could be secured by the installation of a signal and derailing switch about 1,000 feet east of the proposed connection, or at a point so located that engineers of west-bound trains could see the signal in sufficient time to stop; the signal to be locked at danger, and the derail open when the switch leading to the yard is open, and vice versa. This could be easily attained by the use of an ordinary three-way lever stand, placed at the proposed yard switch, and it is recommended that this be done.

The investigation of Mr. T. H. Fennell, superintendent of the New York, New Haven and Hartford, has resulted in the dismissal of the engineer and fireman of the regular train, as it was thought that both men were asleep and did not, therefore, heed the danger signal of the flagman.

A copy of this report was transmitted to the New York, New Haven and Hartford Railroad Company, with a letter making the recommendation of the superintendent, as to the installation of a signal and derailing switch, the recommendation of this Board. The company replied, stating that it seemed to it, for reasons stated, to be impracticable to install the derailing switch, as recommended, but that it would erect the semaphore signal. The Board notified the company that this would be a sufficient compliance with its recommendation.

XXXIX.

IN THE MATTER OF AN ACCIDENT ON THE BROOKLYN UNION ELEVATED RAILROAD, ON SATURDAY, OCTOBER 21, 1899.

December 15, 1899.

Report by Electrical Expert:

I have investigated an accident that occurred on the Brooklyn Union Elevated Railroad on Saturday morning, October 21, 1899, and submit the following:

The accident happened between Navy street junction and a point 50 feet east of Bridge street station on the west-bound track. On the elevated structure at this point are two tracks, with an open space of 20 feet between the inside rails. On the inside of each track is a three foot, six inch board walk, 30 feet above the street level.

The Brooklyn Elevated system consists of four different lines, to wit: Broadway Ferry to Cypress Hills; Brooklyn Bridge to Van Sicklen station; Brooklyn Bridge to Bay Ridge, Sixty-fifth street and Third avenue; Fulton Ferry to Brooklyn Bridge, both to Ridgewood. The three latter routes form a junction at Myrtle and Hudson avenues, which is called the Navy street junction.

Between this junction and the Brooklyn bridge during the rush hours in the morning trains are operated on a one minute headway, and in the evening on a 50 seconds headway.

The Lexington avenue and Ridgeway lines are operated by steam; the Fifth avenue line, by both steam and electricity. The steam trains consist of an engine and four or five cars; the electric trains consist of four cars, including the motor. The steps of the cars are stationary, with trap platforms which are let down over the first step, the platforms extending flush with the gates.

Motor car No. 410, drawing a west-bound train, when on the cross-over switch at the Navy street junction, "blew" its fuse. The car stopped, the fuse was replaced and the train proceeded, but the fuse was again "blown;" and before it could be again replaced, several trains were blocked in the rear. The train directly in the rear of the disabled one, to prevent further delay, pushed the disabled train to the Bridge street station, where the fuse was replaced and the train proceeded without further assistance to the City Hall station.

The blockade of trains between Navy street junction and the Bridge street station caused a delay of five or six minutes, and a number of the passengers becoming impatient left the cars between these points and started on the board walk to the Bridge street station; but before they reached it both the steam and the motor trains had started up. One of these passengers while attempting to board a train in the rear of the disabled train while it was in motion, hung onto the gate with his body extending from the car, and in this manner knocked a number of passengers from the walk to the street below, a distance of 30 feet, killing Gus Snyder, of 1585 Gates avenue, and injuring the following:

Frank Roystone, 1024 Halsey street, mainly shock; W. H. Roystone, same address, fractured head and thigh; Charles Wright, 227 Forty-sixth street, compound fracture of the skull; W. J. Moody, 294 Fifty-eighth street, fractured foot and arm; Gus Schwenderman, 1141 Jefferson avenue, was dragged by train and fell to structure, but was not hurt.

I examined the superintendent of the road and the crew of the train which the man was trying to board, and submit herewith their testimony; also, the testimony of John J. Gillen, jr., and John F. Bermingham, witnesses of the accident.

I find that the company has a set of rules for the guidance of its train employees, a copy of which is furnished in book form to each employee. One of the rules provides that after the car gates are closed they shall not be opened until the next station is reached, and that no passenger shall be allowed to leave the

cars between stations. In addition to this rule there is a notice posted at Sixty-fifth street, dated August 26, 1899, and signed by C. W. Edwards, superintendent, which reads as follows:

"In case of blockade passengers must not be allowed to leave the cars and get on the structures. It is not only dangerous on account of height from street, but also from contact with third-rail. Insist on passengers remaining on the train, telling them the danger they will run the risk of if on the structure. Prevent them from opening the gates and getting on the structure. When a block can be seen, or is known to be, train going in direction of the block, will remain at station whenever possible, so that passengers desiring to, may get off."

I find that there are no hand rails on the lines except for a short distance between Gates avenue junction and the Gates avenue station.

The accident was the result of the passengers violating the rules of the company prohibiting them from leaving the trains between station, which they did over the protests of the trainmen, as shown by the testimony.

While the accident was the result of such violation of the rules; still, had there been rails on the board walk, it would not have occurred, and, in certain instances, such as fire or derailment of cars, it is absolutely necessary for passengers to use the walk.

I would, therefore, recommend that your honorable Board direct the Brooklyn Union Elevated Railroad Company to erect hand rails on the walks on its structures; and where these walks are located on the same side with the third rail, that where practicable they be changed to the opposite side of the track, so as to prevent passengers from coming in contact with the rail.

A copy of this report was sent to the company, with a letter making the recommendations of the electrical expert the recommendations of this Board. In addition to the report of the electrical expert, a complaint was received as to the absence of hand rails on the elevated structures in Brooklyn, from Luigi Galvani Doane, M. D., a resident of Brooklyn. The company notified the Board that hand rails would be erected on the elevated structures.

XL.

IN THE MATTER OF A COLLISION AT THE CROSSING OF THE SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD BY THE RAILROAD OF THE CORTLAND AND HOMER TRACTION COMPANY, NEAR HOMER, NOVEMBER 9, 1899.

December 15, 1899.

Report by Inspector:

In the matter of a collision on the Syracuse, Binghamton and New York Branch of the Delaware, Lackawanna and Western

Railroad, November 9, 1899, near Homer, between a milk train and a trolley car of the Cortland and Homer Traction Company, I have made an investigation and respectfully submit the following report:

Trolley car No. 20, of the Cortland and Homer Traction Company, running south from Homer, at 11.25 a. m., November 9, 1899, was struck and demolished at the crossing of that company's track and the track of the Syracuse, Binghamton and New York Branch of the Delaware, Lackawanna and Western Railroad, by milk train No. 198, also running in a southerly direction, and the following persons riding on the trolley car were killed or injured: Miss Maggie Kennedy, of Scott, N. Y., a passenger, was instantly killed. Frank M. Newton, of Homer, N. Y., also a passenger, was so seriously injured that he died in about twenty-five minutes. O. P. Chrystler, motorman, of Cortland, N. Y., was badly cut about the head and body; badly bruised, but will probably recover. The conductor, O. B. Smith, of Cortland, and Charles Taylor, of Baltimore, Md., a passenger, escaped by jumping from the rear platform before the collision occurred. There were no other passengers on the car. The entire milk train, which consisted of locomotive No. 518, five cars and a caboose, was derailed and ran about 475 feet upon the ties before coming to a stop. No persons on the milk train were injured, and the locomotive and cars were not much damaged. A flagman is stationed at the crossing where the collision occurred, whose duty is to warn persons crossing the railroad when trains are approaching, but this does not relieve the conductors of trolley cars from going to the crossing ahead of the car to see that no train is approaching before a car is permitted to move upon the crossing. The railroad is straight for quite a distance on each side of the crossing, and approaching on the trolley line a train coming from either direction can be plainly seen more than a quarter of a mile distant at any point within five hundred feet of the railroad crossing. Therefore it cannot be considered a dangerous crossing. The engineer and fireman of the milk train both state that the whistle for the crossing was sounded at the usual place—the whistle post (eighty rods from the crossing), and that the bell was rung, as required by law. When they first saw the trolley car, their locomotive was about twelve rods from the crossing. The whistle was blown, bell rung, steam shut off and emergency application of the brake made, but the distance was too short to avoid striking the trolley car; they think their train was running forty to forty-five miles an hour. Andrew Filler, the flagman at the crossing, says that he heard the locomotive whistle sounded about at the whistle post and also heard the bell ringing. At the same time he

noticed the trolley car approaching, and that it was running very fast—apparently faster than usual at that place; he was then standing upon the highway, at the crossing and directly in front of the approaching trolley car. He waved his flag for the car to stop when it was about four hundred feet from the crossing and continued to wave it as the car approached; he also called to the motorman, "For God's sake, stop," but apparently his warnings were not seen or heard, and the car with slight, if any, reduction of speed ran upon the railroad track and was struck by the milk train locomotive. Charles Taylor, a passenger on the trolley car, who escaped by jumping from the car before the collision, testified to the coroner that he entered the car at Homer and seated himself in the rear corner and remained seated in the same place until just before the collision. He saw the milk train pull into Homer before he entered the car. He is familiar with the crossing where the electric road crosses the railroad. The car ran rapidly leaving Homer and slowed down at a switch; then increased its speed and passed over the stretch of track to the vicinity of the crossing at a high rate of speed, and up to the time the car reached the curve where the track deflects from the highway to cross the railroad, he is very sure there was no diminution of the speed of the car. He remembers nothing as to the power being shut off and did not notice that the brakes were set, and felt no sensation of the brakes setting. A few rods before the car reached the curve he noticed the flagman at the railroad crossing waving his flag; the flagman was facing the trolley car and waved his flag in its direction. He saw the motorman standing on the front platform at that time, but did not know what he was doing, as immediately upon seeing the flagman he turned his head to look toward the railroad track; looked out of the rear window and saw the train approaching, then about twenty-five or thirty rods distant. He then sprang to his feet, opened the car doors, went out upon the platform and down upon the step on the left-hand side toward the highway, and stepped off. He had to take three or four quick steps to stop his headway. Mr. Taylor did not notice the conductor, and thinks he left the car first. He saw no signals given to the motorman by the conductor and no warning or outcry was given anyone in the car. When he saw the train he had only time enough to get off and save himself. He did not hear the locomotive whistle blown or bell rung; the car doors were closed, and if the bell was rung he might not have heard it. He does not think any blast of the whistle was given nearby, and thinks the speed of the car was reduced somewhat at the time he left it. His back was toward the track when the collision occurred; he heard the crash and

then saw the wreck of the trolley car lying in the street. He saw Miss Kennedy lying beside the track and next beyond her the motorman, and Mr. Newton several rods farther south. The conductor of the trolley car, O. B. Smith, states that as his car approached the railroad, he was on the rear platform prepared to get off and go ahead to the track and see if the way was clear; that the motorman applied the brakes, the car "skidded," the rail being greasy; the motor was then reversed and the power applied, but the car did not stop, and ran across the north-bound track and upon the south-bound track (where it was struck) at a speed of about three or four miles an hour. As the car approached the track he saw the train approaching and, knowing a collision was likely to occur, got off the car before it reached the track. He does not know why the motorman did not apply the brake sooner, and had no reason to suppose anything was wrong until too late to do anything but get off the car. The day was very bright and there was no water on the rails. The motorman, O. P. Chrystler, states that his car was from seven to nine minutes late; that leaving Homer he ran very slow through the main street. After leaving the switch (about one-half mile south of Homer) he put on full power, and shut off power again at about first house south of gas house (about one thousand feet from crossing). After shutting off the power he allowed the car to drift along until near the fourth house north of the crossing (about six hundred feet from the crossing) and then applied the brakes. The car slackened and the brakes seemed to work; it was going slow into the curve, and he thought the car was going to stop, but as it struck the wet, slippery rail, the wheels slipped and the car went ahead; it was then about six or eight feet from the north-bound track. When the wheels slipped the car began to go a little faster; from where wheels began to slip to the point six or eight feet from the north-bound track he thinks is about two car lengths. He said when the wheels slipped he released his brake, reversed the power and applied it; it did not take effect and the car did not stop. He did not see the flagman; he was looking ahead to see if anything was in front of the car. He did not know any train was approaching, and did not see it until the car was upon the north-bound track. He then saw he could not stop in time, and applying the power, tried to get across ahead of the train. The car was struck, and he remembers nothing more as to what happened. The investigation shows that the cause of the accident was the failure of the motorman, O. P. Chrystler, to approach the crossing of the steam railroad with proper care and to apply the brake in time to stop the car before running upon the crossing, and that he is responsible for the accident.

Recommendations: That derails be constructed in the track of the Cortland and Homer Traction Company on both sides of the steam railroad, to be operated by the conductors of the Traction Company. This will insure the stopping of the car at the proper place for the conductor to go ahead to the crossing, or the car being derailed upon the highway where there will be little liability of any injury resulting and none of its running upon the crossing of the steam railroad.

A copy of this report was transmitted to the railroad company and the recommendation of the inspector, as to derails, was made the requirements of this Board, under section 36 of the Railroad Law. The company notified the Board that the derails would be installed "with all possible speed."

XLI.

IN THE MATTER OF A COLLISION ON THE PENNSYLVANIA DIVISION
OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD,
NEAR LINDLEY, NOVEMBER 13, 1899.

December 15, 1899.

Report by Inspector:

In the matter of a collision on the Pennsylvania Division of the New York Central and Hudson River Railroad, November 13, 1899, near Lindley, between two freight trains, I have made an investigation and respectfully submit the following report:

Train No. 42, a regular scheduled freight train, consisting of 1 car stock, 12 cars mixed freight, 22 cars coal and a caboose, drawn by locomotive No. 65, departed from Stokesdale Junction at about 12.43 p. m., November 13, 1899, bound north, with following train order: "C. & E. No. 42. No. 87 will carry signals to Newberry Junction for engine 1067. No. 42 and No. 87 will meet at Lawrenceville. No. 87 will hold main track. Signed A. G. P. Corrected at 12.43 p. m." Train No. 42 was in charge of conductor William Burke, engineman John Callinan, fireman C. L. Maben, flagman W. G. Ketye, and brakeman M. Corcoran and E. D. Colestock. At Hammonds the following additional train order was received: "C. & E. No. 42. No. 42 and 1-87 will meet at Lathrop. Operator will hold No. 26 at Middlebury for 1-87. Corrected at 1.33 p. m. Signed A. G. P." Train No. 42 proceeded and met 1st 87 at Lathrop, as per the second order, then ran to Lawrenceville and, forgetting the order to meet No. 87 at Lawrenceville, which order held good for 2d 87, passed that station.

at about 2.14 p. m., and collided with 2d 87 about three-quarters of a mile south of Lindley station, at 2.18 p. m.

At the place where the collision occurred there are two sharp curves with very short piece of tangent between, and owing to the curves and high hill intervening it was impossible for the men on either train to see the other until the locomotives were less than 500 feet apart. Both enginemen shut off steam and made emergency application of the air brakes, but were unable to check the speed to any extent, and the locomotives met with great force. Each train was running approximately 20 miles per hour. The force of the collision badly wrecked both locomotives, demolished two cars of train No. 42 and four cars of train 2d No. 87, and badly damaged several other cars of each train. Fireman Peter Wisneski of train 2d No. 87, was caught in the wreckage and so badly injured that he lived but a few moments, and did not regain consciousness. He was pinioned between the wrecked tender and the boiler head, and badly crushed and burned. Brakeman William H. Keyes of same train, jumped or was thrown from the train, and had his left leg cut off about eight inches below the knee, the right broken above the knee, and was otherwise bruised and badly shocked. No other persons were injured to any extent.

Train 2d No. 87 consisted of 17 cars iron ore, 7 cars mixed freight and a caboose drawn by Erie locomotive No. 1067, and was in charge of conductor J. J. Haley, engineman H. W. Parmerter, fireman Peter Wisneski, flagman R. H. Pryde, and brakemen W. H. Keyes and E. E. Drew. This train had orders corresponding to those held by the conductor and engineman of train No. 42, and was running upon the rights given by those orders. The investigation shows that the entire responsibility for the collision rests upon the crew of train No. 42, and principally upon conductor William Burke and engineman John Callinan of that train.

XLII.

IN THE MATTER OF AN ACCIDENT AT HICKSVILLE, ON THE LONG ISLAND RAILROAD, NOVEMBER 29, 1899.

December 15, 1899.

Report by Inspector:

In the matter of a collision at Hicksville, on the Long Island Railroad, November 29, 1899, between a west-bound passenger train and an east-bound freight train, I have made an investigation and respectfully submit the following report:

A regular east-bound freight train of the Long Island Railroad, No. 509, was unloading freight at Hicksville station on the morning of November 29, 1899. The train consisted of 28 cars and a caboose, drawn by locomotive No. 109. The train was in charge of Peter Lynch, conductor, and F. A. Austin was the engineman. The train was standing, with the locomotive, about three hundred and seventy feet east of the station, on the Port Jefferson Branch track. Engineman Austin states that at 6.42 a. m., he called one of the brakemen and sent him ahead with a flag to protect his train against west-bound passenger train No. 108, which was due at that station at 6.50 a. m.; and that at 6.44 he rang the bell to let the conductor know it was time to get out of the way, but received no signal in reply. Soon after he heard the passenger train coming, and blowing a backup signal he started to back the train. He had backed about a car's length when the locomotive of train No. 108 struck his locomotive. The rate of speed of train No. 108 at the time of collision was about five or six miles an hour, and as the freight train had started backward the force of the collision was not very great. The pilots of both locomotives were broken, but there was very little other damage done to either train. George G. Conklin, a passenger on train No. 108 received a slight bruise on the head, and Vincent Lewis, an employee, who was riding on the train, and also A. Whittaker, a brakeman, were slightly bruised. All were able to continue their work, however, and no other persons were injured.

The locomotives collided about three hundred and thirty-five feet east of the station platform. The junction is protected by semaphore signals, and the one in the direction from which train No. 108 came is approximately 1,075 feet from the east end of the station platform and 740 feet from the place of the collision. This semaphore is what is known as a "Home signal," and not to be passed when an extended red blade or a red light is displayed. This signal was against train No. 108. The flagman of train No. 509 was about two hundred and fifty feet east of the signal (he says he did not have time to get any farther) when the train came in sight. Train No. 108 consisted of two cars, drawn by locomotive No. 61. Caspar J. Bedell was the conductor and Howard Forbell, engineman. The train was on time. Engineman Forbell admits the semaphore signal was set against his train and that he saw the flag about the same time, when he was at a point about 1,000 feet from the flag and 1,250 feet from the signal. He says his train was running at about the usual rate of speed, at that place, and little, if any, more than fifteen miles an hour. The brakes had been applied lightly and the speed reduced. Upon seeing the flag and the signal he made a light emergency application of the

brakes, but the wheels slid upon the frosty rail and the speed diminished but little. He then released the brakes and made second emergency application; the wheels slid again and he reversed the engine, but was unable to stop in time to avoid the collision. He says he used sand as soon as the wheels commenced to slide. The other trainmen practically agree with the engineman's statement, and it is doubtless correct.

All trains are required to approach junctions under control. The accident was evidently caused by the failure of the engineman of train No. 108, Howard Forbell, to approach the junction with his train under proper control, considering the frosty condition of the rail and his error in judgment in making emergency application of the air brakes under that condition (had he made the ordinary service application the wheels would probably not have slid and the train could have been stopped in time to prevent the collision). The conductor and engineer of the freight train were also at fault for permitting the train to remain on the main track until the passenger train was due, and not sending out a flagman sooner, so that he could have got a sufficient distance from his train to insure its protection. The railroad company by the signals and rules provided have well protected this junction and no recommendations appear necessary.

ACCIDENT INQUIRIES.

BOSTON AND ALBANY.

September 27, 1898.—Michael Corcoran, killed at Rensselaer, by falling from top of car. On inquiry by the Board the company replied as follows:

"Replying to your favor of November 4th, in relation to accident at Rensselaer, September 27th, beg to say that there was no overhead obstruction which could have had anything to do with the case. Corcoran was near Tower No. 72, and was last seen descending between two cars. There was no shock—train was moving slowly and steadily.

"Yours truly,

"W. R. ROBISON,

"General Superintendent."

BUFFALO, ROCHESTER AND PITTSBURGH.

October 18, 1898.—Arthur E. White, injured at Salamanca.

October 27, 1898.—Jesse J. Dutton, injured at Ashford.

On inquiry by the Board, the company replied as follows:

"I have your favor of the 20th instant and in reply beg to advise that in reference to injury received by Arthur E. White, at Salamanca, October 18, 1898, while attempting to pull pin between engine 89 and N. Y., L. E. and W. car 34655. Both engine and car were equipped with malleable drawheads. The drawhead spring on Erie car was one inch short, leaving one inch play allowing drawhead to push back against face blocks.

"Referring to injury received by Jesse J. Dutton, at Ashford, October 27, 1898, while making coupling between B. R. and P. car 7536 and Penna. Co. car 269. B. R. and P. car was equipped with solid cast drawhead and Penna. Co. car with a skeleton drawhead, both in good condition.

"Yours truly,

"GEO. E. MERCHANT,

"Assistant to President."

April 26, 1899.—Mr. J. W. Peck and Mrs. Isabel Thompson, injured at Lincoln Park. On inquiry by the Board, the company replied as follows:

"Replying to your letter of the 18th instant, making inquiry as to how the switch was left open which resulted in an accident at Lincoln Park, April 26th, would say, that after investigation conclusion was reached that yard conductor neglected to close it after he had used the switch, although he states positively that he closed the switch. He was disciplined as called for by the rules of the company.

"Yours truly,

"GEO. E. MERCHANT,

"Assistant to President."

ERIE.

October 3, 1898.—William Havens, injured on Morgan's crossing, three miles south of Bath. On inquiry by the Board, the company replied as follows:

"Referring to your favor of the 15th instant, in which you ask if there is an unobstructed view of approaching trains at Morgan's crossing, three miles east of Bath, where William Havens was injured, on October 3, 1898.

"It is a blind crossing for people going south on the highway; the view is obstructed by reason that our track west of the crossing is in a deep side hill cut, while east of the crossing the track is on a sharp curve. The view is unobstructed on the south side of the track.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

November 11, 1898.—Charles Campbell, killed at Tuscarora street crossing, Addison. The coroner's jury recommended: "That said Erie Company have an employee to operate the gates at said crossing, and that they be operated at night, and from the ground, instead of being operated from the tower." On inquiry by the Board, the company replied as follows:

"We have not carried out the recommendations of the coroner's jury with respect to the operation of the gates from the ground at said crossing. The gates were down at the time of the accident and the man injured either walked around or under them. In our judgment the operation of these gates from the tower is a better protection to the public than if they were operated from the ground, for the reason that it gives the gate tender a better opportunity to view the approach to the crossing than could be obtained if he were located on the ground. These gates are oper-

ated at present between the hours of 6 a. m. and 9 p. m. I cannot see what bearing the jury's recommendation has to the accident in question, in view of the fact that the gates were down when the accident happened, and if Campbell had remained outside, as he should have done, the accident would not have occurred. We have no data which would indicate the necessity for operating these gates after the hours mentioned.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

November 17, 1898.—J. M. McNalley, injured at Highway Crossing, just east of Silver Springs Station. On inquiry by the Board, the company replied as follows:

"Accident at highway crossing, east of Silver Springs Station, November 17, 1898. The view at this crossing was good when this accident occurred, it being a clear day, no smoke around the crossing and no trains or cars to obstruct the view. This crossing is protected by crossing bells, which were in good condition and ringing for the approach of train 37. We also have a sign at this crossing. I would add further that W. J. Breen, baggage-master at Silver Springs Station, when he saw the apparent danger of McNalley (the man injured), ran toward him, calling out and waving his hands to attract his attention. Train 37 had whistled for the crossing and the engine bell was ringing at the time, but McNalley, as he confessed to Breen, was not thinking of any trains, and walked over the tracks paying no attention to them. He also said at the time that there was no one to blame but himself. There were four or five witnesses who said they heard train 37 whistle and also heard the engine bell ringing as it approached the crossing.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

November 27, 1899.—A. H. Tompkins, injured on McEwin's Crossing, Wellsville. On inquiry by the Board, the company replied as follows:

"We have never understood from the citizens of Wellsville that this was an especially dangerous crossing. We have received no complaints or notices to the effect that the crossing was dangerous, and we are not aware of the necessity for having a flagman remain on this crossing during the evening.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

November 30, 1898.—Thomas Hallihan, injured at Monroe. On inquiry by the Board, the company replied as follows:

"The company's rules by which employees are required to be governed in giving warning when engines move cars on sidings, read as follows:

"Before moving cars great care must be taken to warn persons working about them, and opportunity must be given them to get away and out of danger before the cars are moved.

"With respect to this accident the conductor states that before moving the cars in siding he walked along side of them to see if they were all coupled up and if anyone was working in or about them. He saw no one, and states that doors were all closed. Cars were pulled out and one of them put back again. As train No. 28 was due they backed the train in switch out of the way, the caboose stopping about five feet from the car in switch. A signal was given engineer to back up and brakeman went in and made coupling. The car was then pulled up in place after train 28 had passed. A man then came to door of car in siding (grain doors of which were down and the door nearly closed) and told brakeman that he had been injured. Only the man's head could be seen on account of the grain doors being down. This was the first knowledge the train crew had that there was a man in the car. The train crew stated positively that there was no rough handling of the car.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

December 14, 1898.—Charles Rogers, injured at Howell's Station. On inquiry, the company replied as follows:

"Accident at crossing at Howell's station, December 14, 1898, train 1 striking horse and wagon driven by Charles Rogers. Rogers drove on to the track from the north side. The views from that side of the track at various distances are as follows:

Twenty-two feet from center of westward track, can see 2,650 feet in front of station.

Twenty-five feet from center of westward track, can see 2,650 feet under covering of station platform.

Thirty-five feet from center of westward track, can see 240 feet.

Fifty feet from center of westward track, can see 120 feet.

Rogers apparently did not look to see if a train was approaching. The engine bell was ringing at the time and regular crossing whistle sounded. We have a crossing sign at this crossing.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

December 20, 1898.—J. F. Malone, injured at Binghamton. On inquiry by the Board, the company replied as follows:

"Accident at Binghamton, December 20, 1898, Switchman Malone falling from N. Y., L. E. & W. box car 28770, account of brake wheel coming off, due to nut missing from top of brake staff. This car was inspected by the D., L. & W. R. R. when we delivered the car to them on December 10, 1898, and was again inspected when it was returned to us on December 19, 1898. The brake staff and brake wheel is a part of the inspection by both companies, and car would not be accepted by either unless the nut was on the brake staff or the end thoroughly riveted to hold the wheel on. The nut had evidently worked or jarred off after the inspection.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

January 18, 1899.—J. P. Ferson, injured at Greycourt. On inquiry by the Board, the company replied as follows:

"Referring to your inquiry of the 10th inst., in regard to accident which occurred January 18, 1899, at Greycourt yard, in which Conductor J. P. Ferson was injured while coupling engine on to caboose, you ask 'Was this man's foot caught in the frog or one of the connections of the frog?'"

"I beg leave to state that Conductor Ferson's foot was caught between the rails in head chair of stub switch. His foot was not caught in the frog.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

June 11, 1899.—George Wheaton, injured in Buffalo yard. On inquiry by the Board, the company replied as follows:

"Referring to your letter of the 28th ulto., concerning accident to Switchman George Wheaton, June 11th:

"In answer to your inquiry as to whether or not this company has any system of blocking frogs in order to prevent accidents such as sustained by George Wheaton, I would state that we have no such system.

"Yours truly,
"C. R. FITCH,
"General Superintendent."

July 9, 1899.—John Ferranbaugh, killed on Cedar street crossing, Corning. On inquiry by the Board, the company replied as follows:

"In answer to your letter of the 8th instant, concerning the accident to John Ferranbaugh, at Corning, July 9, 1899; I would state that no action has been taken to comply with the recommendation of the coroner's jury, that the gates at the various crossings of the Erie road in Corning, be operated every day in the week until nine o'clock p. m., except that we have this matter up with the local authorities at Corning, and will no doubt be able to arrive at an amicable understanding with them.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

August 15, 1899.—Fred Bensley, killed on Swartwood's crossing, two miles west of Barton. On inquiry by the Board, the company replied as follows:

"Referring to your letter of August 29th. last, concerning the accident to Fred Bensley at Swartwood crossing west of Barton, August 15th, and your request to be informed whether or not any steps had been taken by this company toward protecting that crossing.

"I wish to apologize for the delay in replying, which is due to the investigation I have been making concerning the necessity of providing protection at that crossing. We have had the brush and trees cleared from our right of way along the road, thereby very much improving the view of our tracks, which, taking into consideration the small amount of travel over the crossing we do not believe there exists any necessity for protection.

"Yours truly,

"C. R. FITCH,

"General Superintendent."

DELAWARE, LACKAWANNA AND WESTERN.

September 10, 1899.—Phillip Henry Epps, killed at Addison, while standing on the sidewalk by being struck by a bundle of newspapers thrown from the Newspaper Special. Commissioner Baker investigated this accident and made the following report:

"I personally investigated this accident and found that the train was running about sixty miles an hour, and that the package of papers weighed about fifty-four pounds. I consider that it is a very dangerous habit to throw off papers when the train is running at such a high rate of speed. Inasmuch as the newspaper service has been transferred to the D., L. and W. I have taken the matter up with its general superintendent, and re-

quested that he have the rate of speed limited and the trainmen instructed to do all that is possible to remove this danger.

"Yours truly,

"FRANK M. BAKER."

The Board communicated with the company in reference to the matter and received the following reply:

"We have already arranged to take every precaution to prevent injuring people by reason of throwing papers from the train. I am greatly obliged to you, however, for your thoughtfulness in calling my attention to the matter. At all stations where large bundles of papers are to be thrown off the speed of the train will be reduced to a slow rate in order to prevent accidents of any kind.

"Yours truly,

"ELY RUMSEY,

"General Superintendent."

FONDA, JOHNSTOWN AND GLOVERSVILLE.

January 18, 1899.—Abram Frederick, injured at Johnstown. On inquiry by the Board, the company replied as follows:

"Answering your favor of the 10th instant, I beg to advise you that the Mason street crossing at Johnstown, where Mr. Frederick was injured, is not at all obstructed, in fact, the track can be seen for some distance as the crossing is approached.

"Yours truly,

"J. LEDLIE HEES,

"President."

LEHIGH VALLEY.

January 3, 1899.—Bradley Mix, killed at McLean. On inquiry by the Board, the company replied as follows:

"I am in receipt of your favor of the 7th instant, regarding accident which occurred January 3, 1899, at passenger station, McLean, N. Y., in which Bradley Mix was injured.

"I beg to advise that the engineer sounded the whistle for the crossing and the fireman rang the bell continuously up to the time of the accident.

"There was no coroner's inquest held.

"Yours truly,

"ROLLIN H. WILBUR,

"General Superintendent."

June 25, 1899.—Charles H. Goodman, injured on first crossing east of Phelp station. On inquiry by the Board, the company replied as follows:

"With reference to your favor of the 21st ult., regarding crossing accident east of Phelps's station, June 25th.

"Beg to advise that from a point on the highway 30 feet from the west-bound track, the view eastward is unobstructed for a distance of about eight to nine telegraph poles. At the top of the approach on the highway, about one hundred feet distant from the west-bound track, there is an unobstructed view looking east, for a mile or more.

"Yours truly,

"ROLLIN H. WILBUR,

"General Superintendent."

LONG ISLAND.

October 13, 1898.—Charles E. Van Houten, killed on Elm street crossing, Morris Park, Long Island; also

October 20, 1898.—John Terrahan, killed on Jericho Turnpike crossing, East Williston. On inquiry by the Board, the company replied as follows:

"Mr. Baldwin has referred to me your communication to him of the 7th, in reference to the accident to Charles E. Van Houten, at Elm street crossing, Morris Park. The crossing in question is on the line of the Atlantic Division, leased road, owned by the Atlantic Avenue Railroad Company, of Brooklyn. The crossing is abundantly protected; that is, there is a bell at the crossing which, it is not disputed, was in good order and ringing at the time of the accident, and, as you may remember, Atlantic avenue is a very wide street, the railroad right-of-way being located in the center. A person approaching the tracks as Mr. Van Houten was had an uninterrupted view of the approaching train for at least fifty feet before he got on the tracks. There were a number of witnesses who heard the bell ringing at the time of the occurrence.

"The Jericho Turnpike crossing is also a crossing where travelers have an uninterrupted view for a long distance before reaching the tracks. In both these cases, although the coroners' juries 'censured' the company, the facts clearly show gross contributory negligence on the part of the persons injured.

"Yours truly,

"WILLIAM J. KELLY."

November 18, 1898.—Charles Gustke, killed, and Augustus Gustke, Elizabeth Gustke and August Gustke, injured on Hempstead road crossing, Brushville. On inquiry by the Board, the company replied as follows:

"Mr. Baldwin, the president of this company, has referred to me your communication to him of the 7th, in relation to the accident at Brushville crossing, Hempstead, in which four persons were injured, one of them fatally. Answering your inquiry, I beg to advise you that a coroner's inquest was held, and the verdict is as follows:

"That the said Charles Gustke came to his death by the negligence of the gateman or flagman, William Moegling, employed by the Long Island Railroad Company at the Brushville crossing."

"Yours truly,

"WILLIAM J. KELLY."

March 29, 1899.—Michael Weitzman, killed at Blessville, Long Island; also

February 21, 1899.—Robert Hayden, killed at Locust Valley, Long Island, three-quarters of a mile west of the station. On inquiry by the Board, the company replied as follows:

"Replying to your letter of May 18th to Mr. W. H. Baldwin, Jr., president, which has been referred to me, in the case of Michael Weitzman, killed at Blissville, March 29, 1899, by his foot being caught in frog.

"It is the custom of this road to block frogs and switches at some points, but it is not universal.

"Referring to the equipping of our cars with ladders: Our freight cars are equipped with side ladders, and as cars are rebuilt at the shops side ladders are applied to them. We are not putting on any end ladders.

"Yours truly,

"W. F. POTTER,

"General Superintendent."

NEW YORK CENTRAL AND HUDSON RIVER.

March 7, 1899.—Mrs. Margaret Culling, injured on highway crossing two miles east of Crittenden; also

March 8, 1899.—John Lally, injured at Catskill; and

April 16, 1899.—Lucien F. Carpenter and Mrs. Sarah Franklin, killed on highway crossing west of Memphis station. On inquiry by the Board, the company replied as follows:

"Replying to yours of May 18th, making inquiry in regard to certain accidents:

"April 16, 1899, near Memphis. The coroner viewed the remains and did not deem an inquest necessary.

"March 7, 1899, near Crittenden. The engine was backing up with four cars. The train was not being shoved by the engine. The whistle was blown and the bell ringing.

" March 8, 1899, Catskill. It was found necessary to amputate both of Lally's feet, and we understand he will leave the hospital in a few days.

" Yours truly,

" E. VAN ETTEN."

July 18, 1899.—A. W. Knowles, killed at White Plains.

August 3, 1899 (Report No. 33).—Robert J. Jones and Kitty Jones, killed on highway crossing at East Steuben.

August 10, 1899 (Report No. 49).—J. M. Cleveland, killed at Adams station.

August 11, 1899 (Report No. 51).—Crawford Hagar, injured at bridge No. 13, south of Spuyten Duyvil.

July 14, 1899 (Report No. 76).—James Kelly, injured at North Tonawanda.

August 7, 1899 (Report No. 41).—William Henry Zimmer, injured near Cranes village.

The Board made inquiry in reference to the above accidents, and received the following reply from the company:

" Replying to yours of September 21st, in regard to several accidents. I beg to advise as follows:

" Regarding fatal accident to A. W. Knowles, July 18th, at White Plains. The trestle and platform are private property, and we have notified the firm owning them that the recommendations contained in coroner's verdict will have to be complied with before we place any more cars on the trestle.

" Report 33; the finding of the jury being that the accident was caused by carelessness of Engineman Doyle. They do not explain as to how or why it was carelessness. We have the names of eleven people who witnessed the accident, or were passengers on the train, and heard the bell and whistle sounded. East Steuben is a flag stop for train 507, but on this date it did not stop. We find the whistle was blown for the station crossing; also for the mail crane, and bell was rung.

" Report No. 49; the jury charging the railroad company with failure to give the crossing proper protection. This is in regard to fatal accident to Mr. Cleveland at Adams August 10th. We find that, from center of main track westward, a train can be seen full 600 feet, and standing 10 feet west of west rail, a person can see 500 feet, at 20 feet distant 400 feet, and at 30 feet can see 250 feet. The view is perfectly clear, and gates are not necessary at the crossing. Mr. Adams was also warned not to cross, but persisted in doing so.

" Report No. 51 states, that injured brakeman lay down to clear bridge, but bolt or something projecting struck him and injured

him. We find that brakeman in question was struck by girder of bridge, was aware of train approaching bridge, but did not lay down to clear girder.

"Report No. 76; asking for clearance between cars and switch stand where J. Kelly was injured at North Tonawanda July 14th. Clearance is one foot nine inches.

"Report No. 41; in regard to injury to H. Zimmer at Cranes village August 7th. The poles referred to were placed a safe distance from the track Monday August 14th.

"Yours respectfully,

"E. VAN ETTEN."

October 31, 1899.—J. E. Signer, killed at Flood bridge, just east of Herkimer station. J. D. Shultz, inspector, made inquiries in reference to this accident, and submits the following statement received from J. Stadler, engineman.

"On the 31st of October, 1899, I was engineman on engine 816, extra 10 west. We stopped at the Herkimer water plug, about one mile east of the Flood bridge, near West Canada creek, Herkimer. I had a new man who was learning to fire, and who had been over the road only once before, by name J. E. Signer. We approached the Flood bridge, Herkimer, at a speed of about six miles per hour on track 3. About two or three minutes before we reached this bridge I saw Signer standing on the deck, and he asked what time it was getting to be. I answered his question, and this was the last I saw or heard of him. Just as engine was passing the first of the high trusses on the Flood bridge I heard a noise as though something had struck the bridge. I at once looked around, and not seeing Signer asked where he was, and when I found he was not on the engine I said "I guess he struck that bridge." I stopped as soon as possible; went back to bridge and found his cap lying on the ties, and by lowering the torch found his body under bridge. He had evidently struck his head and his neck appeared to be broken. I cannot say exactly how the accident happened; whether Signer was leaning out of the gangway and lost his balance and fell or whether he struck his head on the side of bridge. I think there is a clearance of about two feet between the gangway and this truss. We waited at Herkimer until the body of Signer had been taken in charge by the undertaker and then proceeded."

NEW YORK, ONTARIO AND WESTERN.

December 14, 1898.—Claud E. Richardson killed at coaling trestle, Sidney yard. On inquiry by the board the company replied as follows:

"Answering your inquiry of February 7th in relation to accident which occurred December 14, 1898, at coaling trestle, Sidney yard, in which Claud E. Richardson was killed, would say that Mr. Richardson was on the top of Wisconsin Central car 8678, and as the train pulled down past the coal dump he climbed down the side ladder, and was knocked off by coming in contact with bent of coal pocket, fell on rail, and head was crushed by truck of O. & W. gondola car 10060 passing over it. Body was taken to the depot and turned over to the coroner. Coroner's jury, held December 27th, exonerated the company from all blame.

"Regular report of this accident was sent to the Honorable Board of Railroad Commissioners on the 14th of January.

"Yours truly,

"J. E. CHILDS,

"General Manager."

NORTHERN CENTRAL.

October 24, 1898.—Patrick Murphy, injured at Stanley, also November 23, 1898.—Geo. B. Barden, injured in Southport yard, Elmira. On inquiry by the Board, the company replied as follows:

"In reply to your letter of 20th instant, making inquiry in regard to the kind of couplers on cars between which Patrick Murphy and Geo. B. Barden were injured.

"Patrick Murphy attempted to couple C. H. and D. car No. 4702, which was a cripple car and equipped with what is known as a skeleton drawhead, and P. R. R. coach No. 5052, equipped with Janney coupler. Murphy knew this C. H. and D. car was equipped with skeleton coupler, and only a few minutes before had warned another man to be careful in handling the car, and it was due entirely to his own carelessness that he was injured.

"Geo. B. Barden was injured while coupling D. L. and W. car No. 15171 and No. 21450, both equipped with patent automatic couplers in good order. Barden carelessly allowed his hand to remain on one of the bumpers, and when the cars came together two of his fingers were caught.

"Yours truly,

"SPENCER MEADE,

"Superintendent."

STATEN ISLAND RAPID TRANSIT.

May 22, 1899.—McNamee, injured in St. George yard. On inquiry by the Board, the company replied as follows:

"Your letter of July the 28th is received. In reply thereto, beg to state our method for blocking frogs, is to use wedges or

blocks made out of white oak lumber. Some time ago I issued orders that all frogs on our system should be protected in this manner. The order is now being complied with as rapidly as possible.

"Yours very truly,
"J. VAN SMITH,
"Receiver."

WEST SHORE.

February 4, 1899.—James Vincent Morrow, killed on Main street crossing, Coxsackie. On inquiry by the Board, the company replied as follows:

"We have arranged to place a flagman there, from six a. m. until midnight.

"Yours truly,
"E. VAN ETTEN."

April 6, 1899.—Erwin Sauer, killed at South crossing, East Utica. On inquiry by the Board, the company replied as follows:

"After hearing of the verdict of the jury the matter was immediately investigated, and we found that there is an unobstructed view of our tracks both east and west when approaching this crossing in either direction. Approaching from the north side a west-bound train can be seen at a distance of one-half a mile when fifty feet from the crossing, and an east-bound train when it is fully a mile distant. A person approaching from the south side and fifty feet distant from the track, can see a train in either direction when it is fully one-half a mile from the crossing.

"In view of the above, the view being absolutely unobstructed in each direction for the distance stated, it did not seem necessary to put on flagman or gates. From the papers we have, it is evident that the man seeing the train started to run across ahead of it, but was not successful.

"Yours truly,
"E. VAN ETTEN."

June 9, 1899.—William Fox, injured one and one-half miles west of Fort Plain station. On inquiry by the Board, the company replied as follows:

"Replying to yours of July 28th, in regard to accident at Devendorf crossing, Fort Plain, whereby William Fox was injured and two horses were killed.

"I have to advise your honorable Board, that an east-bound train can be seen when 750 feet from the crossing by a person

approaching tracks from the south and distant 50 feet from the crossing. A west-bound train can be seen from the same point when it is fully a mile east of the crossing. The view approaching from the north is unobstructed for a distance of one-quarter mile west and about one mile east.

"Yours truly,

"E. VAN ETEN."

LENGTH OF STEAM RAILROADS

ACTUALLY BUILT AND IN OPERATION JUNE 30, 1899.

(This does not include second track, sidings or turnouts.)

Small capitals indicate lessees; indentations indicate leased or operated lines; otherwise, proprietary.

Name of company.	Miles in New York State.
Bath and Hammondsport.....	10.00
BOSTON AND ALBANY.....	39.30
Hudson and Chatham (owned).....	17.33
Brooklyn and Brighton Beach.....	7.50
Brooklyn and Rockaway Beach.....	3.20
Buffalo, Attica and Arcade.....	28.00
Buffalo Creek.....	5.82
Buffalo Creek Transfer.....	1.10
BUFFALO, ROCHESTER AND PITTSBURGH.....	166.14
Lincoln Park and Charlotte (owned).....	10.30
Perry (owned).....	1.03
BUFFALO AND SUSQUEHANNA:	
Addison and Susquehanna.....	10.00
Wellsville, Coudersport and Pine Creek.....	10.08
CATSKILL MOUNTAIN.....	15.75
Cairo.....	3.77
CENTRAL NEW ENGLAND.....	57.60
Dutchess County.....	12.40
Hartford and Connecticut Western.....	42.50
Central New York and Western.....	62.74
CHATEAUGAY.....	18.01
Chateaugay Railway.....	38.89
Plattsburgh and Dannemora.....	15.92
Saranac and Lake Placid.....	9.93
Connecting Terminal.....	1.00
COOPERSTOWN AND CHARLOTTE VALLEY.....	4.51
Cooperstown and Susquehanna Valley.....	19.48
DELAWARE AND HUDSON COMPANY:	
Adirondack.....	56.97

Name of company.	Miles in New York State.
Albany and Susquehanna.....	142.59
Cherry Valley, Sharon and Albany.....	21.04
Lackawanna and Susquehanna (owned).....	17.65
New York and Canada and leased lines.....	151.08
Rensselaer and Saratoga and leased lines.....	155.15
Schenectady and Duanesburgh.....	13.79
Schenectady and Mechanicville (owned).....	9.93
Dansville and Mount Morris.....	12.28
DELAWARE, LACKAWANNA AND WESTERN:	
Cayuga and Susquehanna.....	34.41
Greene	8.10
New York, Lackawanna and Western.....	208.08
Oswego and Syracuse.....	34.98
Syracuse, Binghamton and New York.....	80.95
Utica, Chenango and Susquehanna Valley.....	97.41
Valley	11.11
ERIE AND PROPRIETARY LINES.....	813.45
Avon, Geneseo and Mount Morris.....	17.70
Goshen and Deckertown.....	11.64
Middletown and Crawford.....	10.22
Middletown, Unionville and Water Gap.....	13.65
Montgomery and Erie.....	10.43
Northern Railroad of New Jersey.....	5.82
Patterson and Hudson River.....	.85
Rochester and Genesee Valley.....	18.40
Erie and Central New York.....	18.14
FALL BROOK.....	15.00
Penn Yan and New York.....	7.07
Syracuse, Geneva and Corning.....	57.75
FITCHBURG	89.47
Saratoga and Schuylerville Branch.....	25.52
Troy and Bennington.....	5.04
FONDA, JOHNSTOWN AND GLOVERSVILLE.....	26.17
*Cayadutta Electric.....	14.50
*Johnstown, Gloversville and Kingsboro.....	4.23
Gloversville and Broadalbin.....	6.20
Genesee and Wyoming.....	16.16
GRAND TRUNK:	
United States and Canada.....	22.18
Greenwich and Johnsonville.....	14.65
Greigsville and Pearl Creek.....	3.00
Island . . . . .	.14
Jamestown and Chautauqua.....	27.31

* Electric roads, operated by Fonda, Johnstown and Gloversville.

Name of company.	Miles in New York State.
Jerome Park.....	1.66
Kanona and Prattsburgh.....	11.44
Keeseville, Ausable Chasm and Lake Champlain.....	5.64
Kinderhook and Hudson.....	16.23
Lake Champlain and Moriah.....	7.66
Lake Shore and Michigan Southern.....	71.12
*Lebanon Springs.....	11.00
Lehigh and Hudson River.....	14.50
Orange County	10.70
LEHIGH AND NEW ENGLAND:	
Campbell Hall Connecting.....	3.78
Pochuck	2.70
LEHIGH VALLEY (RAILROAD):	
Elmira, Cortland and Northern.....	118.49
Canastota and Northern.....	20.65
Hayt's Corners, Ovid and Willard.....	3.82
Depew and Tonawanda.....	10.56
Lehigh Valley (Railway).....	280.86
Rochester Southern.....	30.18
Seneca County.....	8.11
Lehigh and New York.....	115.37
Waverly and State Line.....	.41
Middlesex Valley.....	29.43
Little Falls and Dolgeville.....	10.32
Livonia and Lake Conesus.....	3.00
LONG ISLAND.....	
Brooklyn and Jamaica.....	9.63
Great Neck and Port Washington.....	4.19
Montauk Extension.....	20.84
New York Bay Extension.....	6.12
New York, Brooklyn and Manhattan Beach.....	18.99
New York and Coney Island.....	2.27
New York and Rockaway.....	5.77
North Shore Branch.....	30.29
Prospect Park and Coney Island.....	6.00
Prospect Park and South Brooklyn.....	1.16
Marine .....	.33
Middleburgh and Schoharie.....	5.33
Newburgh, Dutchess and Connecticut.....	58.84
†Clove Branch.....	....
†New York, Boston and Montreal.....	....
NEW JERSEY AND NEW YORK.....	
	16.88

* Length in State of New York 53.93, of which 11 miles only are in operation.

† Not operated.

Name of company.	Miles in New York State.
Garnerville	1.00
New Jersey and New York Extension.....	2.37
New York Central, Hudson River and Fort Orange.....	1.00
NEW YORK CENTRAL AND HUDSON RIVER.....	819.45
Albany Branch.....	11.04
Athens Branch.....	6.16
Buffalo Creek Branch.....	1.29
Carthage and Adirondack.....	46.10
Dunkirk, Allegheny Valley and Pittsburg.....	42.30
Fuller's Branch.....	5.07
Port Morris.....	1.85
New York and Harlem.....	126.96
New York and Putnam.....	54.06
Rapid Transit Branch.....	3.10
Rome, Watertown and Ogdensburg.....	409.70
Rockland Lake Branch.....	1.15
Niagara Falls Branch.....	8.57
Carthage, Watertown and Sackett's Harbor.....	28.81
Oswego and Rome.....	26.89
Mohawk and Malone.....	181.50
Utica and Black River.....	150.38
New York and Mahopac.....	7.09
Mahopac Falls.....	4.05
Terminal of Buffalo.....	11.00
Tivoli Hollow.....	1.23
Troy and Greenbush.....	6.00
Spuyten Duyvil and Port Morris.....	6.04
Wallkill Valley.....	32.88
West Shore.....	451.67
Gouverneur and Oswegatchie.....	13.05
NEW YORK, CHICAGO AND ST. LOUIS.....	60.23
Lake Shore and Michigan Southern.....	7.84
NEW YORK, NEW HAVEN AND HARTFORD.....	14.04
Harlem River and Port Chester.....	11.50
New England.....	30.47
NEW YORK, ONTARIO AND WESTERN.....	318.77
Ontario, Carbondale and Scranton.....	2.91
Pecksport Connecting.....	3.69
Rome and Clinton.....	12.78
Utica, Clinton and Binghamton.....	31.30
Wharton Valley.....	6.80
New York and Ottawa.....	70.90
New York and Pennsylvania.....	27.10
*New York and Rockaway Beach.....	11.97

* 6.19 miles were equipped with electricity and operations began July 27, 1899.

LENGTH OF STEAM RAILROADS.

319

Name of company.	Miles in New York State.
Niagara Junction.....	5.34
NORTHERN CENTRAL (of Pennsylvania):	
Elmira and Lake Ontario.....	99.61
Elmira and Williamsport.....	6.50
OGDENSBURGH AND LAKE CHAMPLAIN.....	118.00
*Bombay and Moria.....	....
Otis Elevating Railway.....	1.35
Owasco River.....	..50
PHILADELPHIA AND READING:	
Central Dock and Terminal.....	..39
Port Jervis, Monticello and New York.....	41.05
Poughkeepsie and Eastern.....	34.99
Rochester, Charlotte and Manitou.....	7.50
Schoharie Valley.....	4.38
Silver Lake.....	6.86
Skaneateles	5.00
South Brooklyn Railroad and Terminal.....	1.00
South Vandalia and State Line.....	4.00
St. Lawrence and Adirondack.....	10.20
STATEN ISLAND RAPID TRANSIT.....	10.90
Staten Island.....	12.64
Sterling Mountain.....	7.60
ULSTER AND DELAWARE.....	75.00
Kaaterskill	7.50
Catskill and Tannersville.....	1.00
Stony Clove and Catskill Mountain.....	14.30
Delaware and Otsego.....	8.79
Hobart Branch.....	3.61
Unadilla Valley.....	19.14
Western New York and Pennsylvania and leased lines..	315.99
Total	8,075.63

* Not operated.

LENGTH OF ELEVATED AND STREET RAILROADS.

ACTUALLY BUILT AND IN OPERATION JUNE 30, 1899.

(This does not include second track, sidings or turnouts.)

Small capitals indicate lessees; indentations indicate leased or operated lines; otherwise, proprietary.

Elevated Steam Railroads.

Name of company.	Miles in New York State.
BROOKLYN UNION ELEVATED.....	20.34
KINGS COUNTY.....	8.38
Brooklyn and Brighton Beach.....	3.24
Manhattan	36.19
Sea View	1.00
Total	69.15

Operating Street Surface Railroads, Mechanical Traction.

ALBANY	13.415
Watervliet Turnpike and Railroad.....	8.42
Amsterdam	4.70
Auburn City	11.782
Ballston Terminal	9.50
Bennington and Hoosick Valley.....	7.75
BINGHAMTON	23.00
Binghamton, Lestershire and Union.....	5.50
Black River Traction.....	7.00
*Brooklyn Heights and leased lines.....	196.25
Buffalo	40.60
Buffalo, Bellevue and Lancaster.....	13.12
Buffalo, Gardenville and Ebenezer.....	4.50
BUFFALO AND LOCKPORT.....	14.08
Erie	13.84
Buffalo and Niagara Falls.....	15.00
Buffalo, North Main Street and Tonawanda.....	5.75

* Except Prospect Park and Coney Island and Brooklyn Union Elevated.

Name of company.	Miles in New York State.
Buffalo, Tonawanda and Niagara Falls.....	10.05
Buffalo Traction.....	10.33
Buffalo and Williamsville.....	5.25
Canandaigua Electric Light and Railroad Company...	3.00
CITIZENS' STREET (FISHKILL).....	3.00
Fishkill Electric.....	4.00
Cohoes City	6.125
Colonial City Traction.....	4.793
Coney Island and Brooklyn.....	13.75
Brooklyn City and Newtown.....	9.854
Corning and Painted Post.....	5.30
Cortland and Homer Traction.....	10.32
Crosstown (Buffalo).....	50.326
Dunkirk and Fredonia.....	3.506
Geneva, Waterloo, Seneca Falls and Cayuga Lake....	17.00
Glens Falls, Sandy Hill and Fort Edward.....	9.34
Hamburg	2.33
Herkimer, Mohawk, Ilion and Frankfort.....	5.75
Hornellsville and Canisteo.....	4.318
Hornellsville Electric.....	4.845
Hudson Street	2.25
Huntington	3.00
Irondequoit Park	3.50
ITHACA	3.50
Cayuga Lake Electric.....	2.00
Jamestown	15.669
Kingston City.....	3.436
Lake Ontario and Riverside.....	12.251
Lewiston and Youngstown Frontier.....	8.30
Long Island Electric.....	15.60
MAPLE AVENUE (ELMIRA).....	1.850
Elmira and Horseheads.....	9.05
West Water Street.....	3.026
METROPOLITAN STREET (NEW YORK CITY) and leased lines	58.12
Middletown-Goshen Traction.....	11.74
NEWBURGH ELECTRIC.....	14.01
New Paltz and Wallkill Valley.....	8.875
New York and Queens County.....	36.41
Niagara Falls and Lewiston.....	7.00
Niagara Falls and Suspension Bridge.....	10.70
Niagara Falls, Whirlpool and Northern.....	1.75
Ocean Electric	1.14
Ogdensburg	10.00

322 LENGTH OF ELEVATED AND STREET RAILROADS.

Name of company.	Miles in New York State.
Olean	12.58
Olean, Rock City and Bradford.....	9.79
Oneonta and Otego Valley.....	7.50
Ossining Electric.....	2.558
Penn Yan, Keuka Park and Branchport.....	8.50
Plattsburgh Traction.....	6.50
Port Chester	5.67
Port Jervis Electric.....	4.30
Poughkeepsie City and Wappingers Falls.....	15.10
ROCHESTER	46.09
Rochester Electric.....	4.66
ROCHESTER AND IRONDEQUOIT.....	4.50
Rochester and Lake Ontario.....	6.046
Saratoga Traction.....	12.19
Schenectady	4.22
Sea Cliff Inclined Cable.....	.09
Southern Boulevard.....	3.50
Staten Island Electric.....	18.85
Staten Island Midland.....	16.20
Stillwater and Mechanicville.....	12.75
Syracuse and East Side.....	7.08
Syracuse Rapid Transit.....	29.84
Syracuse and Suburban.....	11.941
Tarrytown, White Plains and Mamaroneck.....	14.50
Third Avenue (New York city).....	14.50
TROY CITY.....	15.338
Lansingburgh and Cohoes.....	1.10
Troy and Cohoes.....	3.58
Waterford and Cohoes.....	1.888
Troy and New England.....	8.90
Union (New York city).....	28.19
UTICA BELT LINE.....	8.30
Utica, Clinton and Binghamton (street portion)..	10.89
Utica Suburban.....	4.00
Utica and Mohawk.....	2.75
Van Brunt Street and Erie Basin (Brooklyn).....	1.25
Westchester Electric.....	17.34
West Side (Elmira).....	8.25
Yonkers	13.36
Total	1,225.162

Operating Street Surface Railroads, Animal Power.

Name of company.	Miles in New York State.
Babylon	1.53
CENTRAL CROSSTOWN (NEW YORK CITY).....	2.015
Christopher and Tenth Street (New York city)...	1.718
City Island.....	1.80
Deerfield and Utica.....	1.75
Dry Dock, East Broadway and Battery (New York city)	7.96
Forty-Second Street, Manhattanville and St. Nicholas Ave. (New York city).....	12.45
Fulton Street (New York city).....	.39
Larchmont	1.50
METROPOLITAN STREET (NEW YORK CITY) and leased lines	47.10
Oneida	1.50
Pelham Park	1.40
Rome City.....	6.08
Thirty-Fourth Street Crosstown (New York city)....	.81
Twenty-Eighth and Twenty-Ninth Streets Crosstown (New York city).....	3.04
Total	91.043

SUMMARY OF STREET ROADS.

Operated by mechanical traction.....	1,225.162
Operated by horses.....	91.043
Total street surface.....	1,316.205
Elevated roads	69.15
Total street surface and elevated.....	1,385.355

INSPECTIONS.

Following are reports made by the Inspector for this Board of his regular inspections, during the year, of steam railroads in the State, about half the mileage of which is inspected each year.

BROOKLYN ELEVATED RAILROAD.

(Inspected May 9, 10, 11, 12, and 20, 1899.)

The Brooklyn Elevated Railroad system is composed of several lines of elevated structure in the borough of Brooklyn. The Broadway line extends from Broadway ferry to Cypress Hill; the Myrtle avenue line from Grand avenue to Wyckoff avenue station; the Lexington Avenue line from Brooklyn bridge to Broadway, via Myrtle, Grand and Lexington avenues; the Fulton Ferry and Navy Yard line from Fulton ferry to junction with Lexington avenue on Myrtle avenue; the Fifth Avenue line from junction with Lexington avenue line, on Myrtle avenue, to Sixty-seventh street (Bay Ridge). This company also operates on the four tracks gauntlettred across Brooklyn bridge. The total length of lines, all double track, equals 20.16 miles, of which the loop at Brooklyn bridge, .17 miles, the extension of the Broadway line from Fulton street to Cypress Hill, .40 miles, and the extension of the Fifth Avenue line from Thirty-eighth street to Sixty-seventh street, 1.77 miles—a total of 2.34 miles, are the property of the Sea Side and Brooklyn Bridge Elevated Railroad Company, operated by the Brooklyn Elevated Railroad Company. The total of all tracks, including sidings, yards, etc., on the system is 45.62 miles.

Your Inspector walked underneath the structure the entire length of all lines, examining foundations, columns, connections of girders, both longitudinal and transverse, to top of columns and to each other; also examining the entire structure from the under side, as thoroughly as possible in the time spent upon that part of the inspection; also walked over the greater portion of all the lines upon the track, examining girders, connections, floor system, rails, switches, frogs, stations and other details of maintenance; rode on rear of trains over all lines, stopping frequently to inspect stations, track, etc.

The foundations show no indications of settlement, and no cracks were found either in foundations or casting at foot of columns. The columns are of lattice design and are in good condition. The girders, both longitudinal and transverse, are almost entirely plate; a few trussed and lattice girders are used; they are all of good design and construction and of sufficient strength. All connections are well made. No loose rivets were discovered in any girders or connections. There is very little vibration or deflection under moving trains. The entire metal structure is in first-class condition; it is well painted and free from dirt or cinders. Drip pans are suspended beneath the floor system where engines stand at down-town stations and about Brooklyn bridge; they are in good condition and frequently cleaned. All timber used upon the structure is yellow pine. The ties are 6 x 8 inches by 7 and 8 feet in length, and are spaced about 14 inches center to center. Guard timbers 6 x 8 inches, bolted to every second tie, are used both outside and inside the track rails, excepting on curves, where steel rails well braced and spiked are used upon the inside, instead of the wooden guard timber. Some poor ties and guard timbers were found, especially on the Broadway and Lexington Avenue lines. About 17,000 ties were renewed in 1898, and 28,000 are ordered for 1899. Approximately, 41,000 feet B. M. guard timber was renewed in 1898, and 77,000 feet B. M. are ordered for 1899. Walks between the tracks are maintained for the use of employees engaged in caring for the structure. The rail is steel, weighing 60 and 85 pounds to the yard, excepting at Brooklyn bridge, where 70-pound steel rail is used, and Brooklyn Bridge yard, where it is 50-pound steel. The 60-pound rails are connected by angle plates 24 inches in length, with 4 bolts; the 85-pound rails are connected by angle plates 28 inches in length, with 6 bolts; the 70-pound rails are connected by angle plates 32 inches in length, with 6 bolts, and the 50-pound rails are connected by angle plates 24 inches in length, with 4 bolts. The 85 and 70-pound rail is in good condition; the 60 and 50-pound rail is considerably worn, especially the 60-pound rail on the Broadway and Lexington Avenue lines. About 280 tons of new steel rails were laid in 1898, and it is expected that over 2,000 tons will be used in repairs this year. Tie plates are not used. The line and surface of track are very good. Angle plates are in good condition; no cracked or broken ones were found. All joints are full bolted; a few bolts were loose in joints of the worn 60-pound rail. The rails are laid with staggered joints. The switches are all point; switch stands are automatic; both spring rail and rigid frogs are used. Facing switches are avoided as much as possible, and those not connected with switch and signal towers are interlocked with signals, and

cannot be set for other than main track without first setting signal indicating danger to approaching trains. There are 15 interlocking switch and signal plants on the system; they are located at all junctions, terminals, approaches to yards and other points where sharp curves, or switches frequently handled, require protection. No automatic fog signs are used.

The stations are clean and well kept; they are well painted and present a neat and tasty appearance; they are apparently provided with sufficient stairways. A few have water closets, but the majority have none.

The yards for storage of cars and engines are at Thirty-sixth street, on Fifth avenue, East New York, and Brooklyn bridge. A limited number of cars or engines can be stored on siding at all terminals, and at a few other points on line of road. Coaling stations are at Thirty-sixth street, on Fifth avenue, and at Fulton ferry; small quantities of coal for emergencies are kept also at terminals. Water stations are at Thirty-sixth and Sixty-fifth streets, on Fifth avenue, Brooklyn bridge, Gates avenue, Broadway ferry, Fulton ferry, Van Sicklen avenue, Cyprus Hill and Wyckoff avenue. General repair shops are located at East New York.

The motive power and general rolling stock are kept in thorough repair. Engines are inspected regularly, and all necessary repairs promptly made. The cars are kept neat and clean and in excellent sanitary condition. The train service varies to meet the requirements; the trains are much more frequent in the morning and evening hours than during balance of the day. In the "rush hours" morning and evening the trains are sometimes considerably crowded, but, as a rule, there appear to be sufficient trains to meet the requirements. Train and all male station employees are uniformed and wear a badge indicating their employment. The trains across Brooklyn bridge, and as far out as Bridge street on Lexington Avenue line, are drawn by electric motors. Other parts of the road are being fitted for operating by electricity, the evident intention being to convert the road to an electric system of operation. The equipment consists of 95 engines, 12 motor cars, 285 passenger cars, 7 flat cars, 8 coal jimmies and 1 supply car.

Recommendations: That all decayed ties and guard timbers be promptly renewed, and that badly worn rails on Lexington avenue and Broadway be replaced.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that it was complying, and would comply, with the recommendations.

BROOKLYN AND ROCKAWAY BEACH RAILROAD.

(Inspected May 6, 1899.)

The Brooklyn and Rockaway Beach Railroad extends from East New York, Twenty-sixth ward of borough of Brooklyn, to Canarsie Pier, on Jamaica bay, a distance of 3.2 miles, of which 2.24 miles is double track. The road is standard gauge and laid with 56 and 60-pound steel rail. The 60-pound rail is connected by angle plates 24 inches in length, with 4 bolts, and the 56-pound rail by fishplates 22 inches in length, with 4 bolts. The ties are about half chestnut and half yellow pine; a few oak are used. They are 6 x 8 inches by 8 feet in length, and 16 to 17 are laid to a 30 foot rail. The maximum grade is 18 feet per mile, near East New York. The maximum curve is 15 degrees, also near East New York. The 60-pound rail is in good condition, and the 56-pound rail in fair condition. The ties in the east track are good; not more than 5 per cent. will require renewal this season. The ties in the west track are very poor; at least 25 per cent. are rotten and should be renewed before that track is used. All ties are full spiked and rail braces are used on all curves. The joints, line and surface are medium. Many track bolts are missing from the joints, and a large number of those now there have loose nuts. The switches are all point; switch stands are rigid; rigid frogs are used. Sidings are in fair condition, with the exception of ties many of which are decayed. The right of way is not fenced. The planking at road crossings is in many cases poor, and should be renewed. Crossing signs are lacking at some of the highways. There are no whistle or mile posts on the road. Cattle guards are not used.

A freight track of the Long Island road crosses this road near East New York. When road is in operation this crossing is protected by flagman. The Nassau Electric Railroad crosses in two places; both crossings are protected by interlocking semaphore signals. The switches at approach to Canarsie yard are interlocked and signalled. There are no bridges on the line.

The stations and platforms are in fair condition. Sanitary arrangements are good. Station grounds and yards are clean. The equipment consists of three locomotives weighing about 30 tons each; four closed cars; 11 open cars and one gondola.

The road has not been in operation during the past winter, and no trains are now running except an engine and one gondola, engaged in hauling materials for making repairs. It is expected to commence running trains May 30th. Previous to that time considerable repairs should be made, the principal of which are as follows:

A 10-foot open culvert at Mill creek should have new caps to the pile bents which are used in place of abutments. A small two-foot open culvert made of plank, located near Canarsie, requires renewal. Many new tiles should be put in west track. The track should be lined and surfaced; crossing signs erected where lacking; new planking put in crossings where needed; missing bolts at joints put in, and all nuts screwed up tight.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. A letter was received from the company, stating: "Superintendent Warner has already complied with some of your instructions, and will continue until all the work is done and the road put in proper condition for traffic."

BUFFALO, ATTICA AND ARCADE RAILROAD.

(Inspected November 23, 1899.)

The Buffalo, Attica and Arcade Railroad extends from Attica, on the line of the Erie Railroad, to Arcade, on the line of the Western New York and Pennsylvania Railway, a distance of 28 miles. The road is single track and standard gauge. Two miles of the track are laid with 56-pound steel rail and the balance with 60-pound steel rail. The 56-pound rail is connected by fishplates, 21 inches in length, with 4 bolts, and the 60-pound rail by angle plates, 22 and 24 inches in length, with 4 bolts. The ties (oak, chestnut, hemlock, beech, birch and a mixture of other hardwoods), are 6 x 6 to 6 x 9 inches and 8 feet in length; 14 to 15 are laid to a 30-foot rail. The cuts are generally narrow and slopes have slipped, filling the ditches and rendering the roadbed soft and spongy. The embankments are narrow and many of them not up to grade. A few of them have settled to the extent that the grades in and out of the sag are exceedingly steep and liable to cause uncoupling of the cars. No subdrainage has been used. The ties are full spiked but not evenly spaced; about 9,000 have been renewed this season and 1,000 more are distributed and will be put in the track at once. The renewals have not been sufficient; at least 10,000 more new ties should have been used this season. The rails are considerably worn and bent, especially at and near the ends. A few of the angle and fish plates connecting the rails are cracked and many are bent. A large number of track bolts are missing, and many others are loose. The joints are generally low and the line and surface poor. The curves are irregular and surface and elevations variable. The maximum curve is 18 degrees at Arcade. The maximum grades are 60 feet per mile, but sags in embankments make them steeper in places for short distances. The switches are split point, and

frogs rigid. Some ground lever stands, without targets, are used. All stands are rigid and those having targets are well painted. Frogs and guard rails are not blocked. A little gravel and cinder ballast is used, but most of the track is practically unballasted. No railroads are crossed at grade. Almost the entire right of way is without fencing; the farm fences run to the track, and pit cattleguards are used at nearly all such places. Pitguards are also used at highways; they have no masonry, and the stringers rest upon bank sills. All large trees upon the right of way have been removed, but some small trees and brush remain. The grass and weeds, excepting near the track, have not been cut this season.

The yards and sidings are only in medium condition, and refuse materials are scattered about them, as well as upon the right of way, generally. There are but two trussed bridges; the other roadway structures are pile and timber trestles, open culverts and cattle passes. With two or three exceptions they are without masonry, and timber or pile bents, planked behind, are used to support the embankments. The Howe truss bridge at Arcade is in poor condition, and is supported on bents pending renewal. The other roadway structures are generally in fair condition, and are apparently receiving proper attention and repairs or renewals when necessary; nearly all have guard timbers notched on the ties and properly bolted to them. Several large trestles are to be filled this fall and others rebuilt. The openings under or through the embankments are stone culverts and quite a number of them need repairs or renewal. The highway crossings are in fair condition. Crossing signs are in place at all highway crossings; they are of the long board design, marked "Railroad Crossing" in letters six to eight inches in length. Neither mile nor whistle posts are maintained. There are no overhead obstructions. The sections are nine and one-third miles in length, and a foreman and six trackmen are employed upon each. Section gangs are not furnished with either flags or torpedoes. No regular track-walker is employed.

The stations are clean and in good sanitary condition; they are in fair repair, but generally devoid of paint. Drinking water is furnished in principal stations and time tables are posted in all of them. The agents can check baggage to all points to which they sell tickets. Station platforms are almost entirely of gravel and in fair condition. Station grounds are in medium condition. Agents are not uniformed.

The equipment consists of two locomotives, weighing from 35 to 38 tons, one combination and one chair car. The combination car is in poor repair, has pin and link couplers and air brake, is heated by coal stove and lighted by oil lamps; this car is to go

to the shop at once to be repaired and equipped. The chair car is properly fitted up and is in good condition. The road owns no freight cars.

Recommendations: That the narrow cuts be widened and properly ditched, narrow embankments widened and low ones raised to grade and extensive tie renewals made. All cracked angle and fish plates replaced, the missing track bolts supplied and all loose ones made tight. The track properly surfaced, lined, and, as far as possible, ballasted. Fences built and put in proper condition. Small trees, brush and weeds on the right of way be cut and removed. The bridges, open culverts and cattle-passes carefully watched. All necessary repairs made and guard timbers supplied where now lacking. Whistle posts be erected 80 rods each side of all highway crossings. Crossing signs be made of approved design with nine-inch letters. Stations painted. Section gangs be furnished with flags, lanterns and torpedoes, and until the condition of track is considerably improved the speed of trains be restricted to a maximum of 18 miles per hour.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with.

BUFFALO CREEK RAILROAD.

(Inspected June 8, 1899.)

The Buffalo Creek Railroad extends from the line of the New York Central and Hudson River Railroad at William street (East Buffalo), to Peck Slip, a distance of 5.82 miles, all within the city of Buffalo. This road is used as connection between various elevators, mills and other industries, and the following railroads: New York Central and Hudson River; West Shore; Erie; Western New York and Pennsylvania; Lehigh Valley; Delaware, Lackawanna and Western; New York, Chicago and St. Louis; Buffalo, Rochester and Pittsburgh; and Lake Shore and Michigan Southern.

The road is double track, standard gauge, and laid with 58 and 80 pound steel rails. The 58-pound rail is connected by 24-inch angle plates, with four bolts; and the 80-pound rail by 30-inch angle plates, with six bolts. The ties are mainly white oak; a few cedar are used; they are 7 x 9 inches and 8 feet in length and 17 are laid to a 30-foot rail. The maximum curve is 20 degrees, at Lehigh Valley junction. The maximum grade is 40 feet per mile for a short distance, at approach to the ship canal bridge. The condition of the 58-pound rail is poor, it being

much worn, especially at the ends. The condition of the 80-pound rail is good. The larger part of the main line is laid with the 80-pound, and all that part where passenger trains run is laid with 80-pound rail. The bolts are all in the joints of the 80-pound rail and all nuts are screwed up tight; a few bolts are missing in joints of the 58-pound rail and some nuts are loose. The joints, line and surfacing of the 80-pound rail are good, and of the 58-pound rail fair. The switches in main track are all point; in sidings and yards some stub switches are used. Switch stands are rigid; all have targets and are well painted. All frogs are rigid. Guard rails and frogs are not blocked. Sidings and yards are not in first class condition; the rail is much worn; joints, line and surface are poor in many places. The ties in main track are in good condition, and in sidings in fair condition; they are well spaced and full spiked, with all spikes driven close to the rail. All road crossings are well planked and approaches are well graded. Low overhead bridges are protected by warning signals located about one hundred feet from the obstruction. The bridges are all in good condition; they have standard floor systems, and all timber used upon them is in sound condition.

The following railroads are crossed at grade: Lake Shore and Michigan Southern, protected by interlocking signals and derailling switches; New York, Chicago and St. Louis, protected by tilting board signal; Western New York and Pennsylvania, protected by tilting board signal; Delaware, Lackawanna and Western, protected by disk signals located in a tower at the crossing; Erie, protected by signal board on standard; Western New York and Pennsylvania (second crossing), protected by signal board on standard. The Buffalo Creek Railroad runs no passenger trains and owns no passenger or freight cars; it has 11 locomotives, and does switching service only. The Buffalo and Southwestern division of the Erie Railroad runs passenger trains over that portion of the main line from the junction of that division to the junction of the Erie Railroad main line. The road appears to be properly maintained and operated, and no recommendations seem necessary.

A copy of this report was sent to the company.

BUFFALO AND SUSQUEHANNA RAILROAD.

(Inspected June 10, 1899.)

The portion of the Buffalo and Susquehanna Railroad in the State of New York extends from the Pennsylvania state line to Wellsville, on the line of the Erie Railroad, a distance of 10.08 miles.

The road is single track, standard gauge, and laid with 60 and 80-pound steel rails. The 60-pound rail is connected by angle plates 24 inches in length, with 4 bolts, and the 80-pound rail by 36-inch angle plates, with 6 bolts. The ties are one-half hemlock, and the balance oak, chestnut and cedar, in about equal proportions. They are 6 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The maximum grade is 75 feet to the mile. The maximum curve is 14 degrees. The condition of the 60-pound rail is medium; the 80-pound rail is in lengths of 45 feet; it is practically new and in excellent condition. The angle plates are full bolted, and no nuts were found loose. The joints, line and surfacing are good, and curves have proper elevation. The ties are in fair condition, well spaced and full spiked. The switches are all point; switch stands both spring and rigid. All have targets, and paint on them is fair. Spring rail and rigid frogs are used. Frogs and guard rails are not blocked. The track is ballasted with gravel in fair quantity.

The fences are in fair repair. Wooden slat cattle guards are used. Crossing signs are diamond form and have 9-inch letters; a few are missing; whistle posts are erected at proper places. Highway crossings are well planked and approaches in good condition. Some cuts are narrow and slopes steep. Ditches are needed in places. Embankments are good width and proper slopes. Places where water is liable to injure embankments in time of freshets are protected by piling, timber docking or rip rap.

The bridges and trestles are in good condition. Ties on bridges are oak, 8 x 8 inches and 10 feet in length, spaced 14 inches center to center. Guard timbers are 6 x 8 inches, notched, and bolted every fourth tie. Trestle spans are generally 12 feet, and three 8 x 16 inch stringers are used under each rail.

Stations are neat and clean. There is a sign on each giving its name. All are furnished with drinking water, and a time table of the road is posted. Station grounds are in good condition. Platforms are plank and all sound. The sections are seven miles in length, and a foreman and four men are employed on each. The coaches are in good condition, with drinking water in each. They are furnished with tools located in center of the cars. The cars are heated by steam, equipped with air brakes and automatic couplers, and are lighted with oil lamps. All trainmen are uniformed.

Recommendations: That narrow cuts be widened, and ditches made where needed; that missing crossing signs be restored.

A copy of this report was sent to the company, with a letter making the recommendations of the Inspector the recommendations of this Board. The company notified the Board that it would comply with the recommendations.

CATSKILL MOUNTAIN RAILWAY.

(Inspected August 15 and 16, 1899.)

The Catskill Mountain Railway, main line, extends from Catskill Landing to Palenville, a distance of 15.75 miles, and the Cairo branch, from Cairo junction to Cairo, a distance of 3.77 miles, making a total mileage of 19.52 miles. The road is single track, 3 foot gauge, and laid with 40-pound steel rail, connected by angle plates and fish plates 17 inches in length, with 4 bolts. The ties, two-thirds chestnut and one-third white oak, are 6 x 8 inches, 6 feet in length, and 17 are laid to a 30-foot rail. The cuts are taken out to the proper width and slope. The embankments are full width and well up to grade. The roadway is well ditched. No sub-drainage in use. The ties are in good condition and very few will require renewal this season. They are evenly spaced and full spiked. Some tie plates are used and show good results. The rails are in very fair condition. All angle and fish plates are good and full bolted, with all nuts screwed up tight. The joints, line and surfacing are very good. Curves are well lined and properly elevated. The rails on all sharp curves are well braced. The maximum curve is 28 degrees. The maximum grade is 132 feet per mile. The switches are all split point, are well adjusted and in good condition. Both rigid and automatic switch stands are used; they all have targets and the targets are well painted. Frogs are rigid. Frogs and guard rails are not blocked. The track is ballasted with gravel in fair quantity. No shims have been allowed to remain in track. No railroads are crossed at grade. The West Shore Railroad crosses overhead at Catskill, and the Otis Elevating Railway connects at Otis junction. The fences are mainly of wire and are in very fair condition. All trees, brush and weeds are cut and the right of way is generally clean and free from rubbish. The condition of yards and sidings is good. The highway crossings are well graded and planked. The triangular form of crossing sign is used. There are no cattle guards. Whistle posts are at the prescribed distance from each highway crossing. There are no mile posts. Warning signals are not placed where overhead obstructions are less than 20 feet above, for the reason that all cars used on the road have end brakes and none upon the top. The bridges, open culverts and cattle passes are all in good condition. They all have good and sufficient floor systems, excepting that the smaller openings have guard timbers spiked on the ties instead of being notched and bolted. There are no wooden trestles. Sharp curves, especially where approaching bridges, have one inside guard rail. There is a tunnel, 86 feet in length,

under a street at Catskill; the bench walls are stone masonry and the arch is brick. This has been constructed since last inspection, eliminating a very dangerous grade crossing. The length of each section is 8 miles, and one foreman and 10 trackmen are employed upon each. Each gang is provided with flags. No regular track walker is employed, but some member of each gang examines the track daily. The stations are clean and in good sanitary condition. There is a sign upon each giving its name. They are furnished with drinking water and a time table of the road is posted. The agents can furnish checks to all points to which they sell tickets. The station grounds are in fair condition. Station platforms are of plank and are sound. Agents and helpers wear uniform, caps and badges indicating their employment. No protection against fire is provided, excepting at Catskill Landing, where hydrants and special hose are ready for emergencies. The coaches are all in good condition, with drinking water in each; they are furnished with tools located in the center of the cars, are equipped with automatic couplers and vacuum brakes, and are heated by stoves and lighted with oil lamps. All freight cars have automatic couplers and air brakes.

Recommendations: That all bridges, open culverts and cattle passes have guard timbers, not less than 6 x 8 inches, notched on the ties and securely bolted to each third or fourth tie, and that inside guard rails be laid and maintained upon all bridge structures. That cattle guards be maintained at each boundary of all highways crossed.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

CATSKILL AND TANNERSVILLE RAILWAY.

(Inspected August 15, 1899.)

The Catskill and Tannersville Railway extends from Otis Summit to Tannersville, a distance of approximately 6 miles. The road is single track, 3-foot gauge, and laid with 40 and 46-pound steel rail. The 40-pound rail is connected by angle plates 18 and 21 inches in length, with four bolts, and the 46-pound rail by fish plates 20 inches in length, with 4 bolts. The ties (principally chestnut) are 6 x 7 inches and 6½ and 8 feet in length, and 15 are laid to a 30-foot rail. The larger part of this road has been recently constructed, and is yet in a very unfinished condition. The cuts are narrow and only partially sloped, and are not ditched. In many places the embankments are little or

no wider than the length of the ties, and stones have been loosely piled on the sides to hold the earth. The embankments are not up to grade in many places. The road, even when completed as designed, will be poorly adapted for operation as a steam road. The curves are very frequent and sharp (up to 20 degrees), the grades are very heavy (264 feet per mile), with frequent and abrupt changes. The line and surfacing of track are very poor, curves are irregular in line and surface, and in some places the outer is lower than the inner rail. There is practically no ballast on the new part of the road, and the spaces between the ties have little or no filling. The newer part of the road has been in operation about two weeks. One derailment has already occurred, and with the track in present condition others are likely to occur at any time. The road until improved is not in fit condition for use, and if it is to continue in operation should be improved at once. While this is being done trains should be run at so slow a speed that a derailed car or locomotive would stop before getting off the ends of the ties. A part of the rails are new and a part are second-hand, and all are in very fair condition. The angle and fish plates are full bolted and all nuts are tight. The ties are new and sound and are properly spaced and full spiked. The switches are split point and are good. Both rigid and automatic switch-stands are used. All switch-stands have targets and the same are well painted. All frogs are rigid. Frogs and guard rails are not blocked. The road is partially fenced with wire. Trees and brush are partially cut, but much of the fallen timber remains upon the right of way. The yards and sidings are but partially completed, and have not been surfaced. There are no long span bridges; the trestles are well constructed, and have sufficient timber. They have good floor systems with guard timbers, notched and properly bolted to the ties. The open culverts have fair masonry; the stringers and ties are sufficient to carry the trains, but lack guard timbers. The highway crossings are planked, and the approaches are fairly well graded. The crossing signs, which are of triangular form, have not all been erected. There are no whistle or mile posts. One foreman and eight trackmen are employed surfacing, but where it is most needed they have little material to use. The stations, as far as completed, are very good, being clean and in proper sanitary condition. The agents can check baggage to any point to which they sell tickets. The coaches are in good condition and are clean and neat. They are equipped with vacuum brakes, and have pin and link couplers. Boxes for tools are placed under the cars, but no tools were found in them. Provision is made for heating the cars with stoves and lighting with

oil lamps. The trainmen are uniformed and wear badges indicating their employment.

Recommendations: That the cuts be properly sloped and ditched, the embankments widened, properly sloped and raised to grade, and the track ballasted, lined and surfaced at once. Until this is done, if permitted to run trains at all, the speed should be restricted to eight miles an hour. That guard timbers be put upon all open culverts. That inside guard rails, spaced eight inches from the track rails and running to a point in the center of the track at least fifty feet distant from each end, be maintained upon all trestles to conduct a possibly derailed truck across the structure upon the ties and prevent its running off the sides, and that the right of way be cleared, fences built and crossing signs erected where lacking.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company replied that it would comply with the recommendations.

CENTRAL NEW YORK AND WESTERN RAILROAD.

(Inspected June 13, 1899.)

The Central New York and Western Railroad extends from Hornellsville to Hornellsville Junction, a distance of 10.13 miles, and from Angelica to Wayland, on the line of the Delaware, Lackawanna and Western Railroad, a distance of 34.61 miles. The road is single track, standard gauge, and is laid with 56-pound steel rail, connected by angle plates 20 inches in length, with 4 bolts. The ties are 6 x 8 inches and 8 feet in length; about one-half of them are oak, the balance chestnut and hemlock. Quite a proportion of the cuts are narrow, with steep slopes and poor ditches. The embankments are generally of good width and slope. No sub-drainage is used. The ties in that portion of the road from Hornellsville to Hornellsville Junction, and from Swains to Wayland, are in fair condition. Some decayed ones will require renewal, amounting to about 10 per cent. of the entire number in track. The ties in that portion of the road from Angelica to Swains are in very poor condition, and at least 25 per cent. of them should be renewed. The rail is in fair condition. Angle plates are full bolted and nuts generally screwed up tight. The joints, line and surface, on all except the portion of the line from Angelica to Swains, are very good; on the portion from Angelica to Swains it is poor. Gravel and sand ballast is used in limited quantity. The switches are all point; switch stands rigid, with few exceptions. They all have targets and are well painted. Frogs and guard rails

are not blocked. Very few shims were found in track. The fences are in fair condition. Trees, brush and weeds are cut, and the right of way is generally clean. Condition of sidings and yards is fair. The bridges, trestles and culverts on all, excepting the line from Angelica to Swains, are generally in good condition. The Stony Brook viaduct, 701 feet long and 239 feet high, has two cracked foundation piers, which should be repaired or rebuilt. This structure is badly rusted, and should be cleaned and thoroughly painted to prevent further injury. Many of the trestles and bridges on the line from Angelica to Swains are in very bad condition, much of the timber badly decayed. The trestle at Swains, about 1,500 feet in length, has much rotten timber, and should be very extensively repaired, rebuilt or filled at once. Your Inspector does not consider this trestle safe to operate over. A large proportion of the other trestles on this line are in little better condition; in fact, nearly all of them have reached the point where further repairs seems hardly advisable, and entire renewal, where they cannot be filled, appears to be the only remedy. The stations are neat and clean; a sign is on each, giving the name. The principal ones are furnished with drinking water. Time tables are posted. The agents can furnish checks to points where they sell tickets; they are also furnished with lanterns and flags. They wear cap and badge, but are not otherwise uniformed. The station grounds are fairly clean; platforms are planked and generally in good condition. Road crossings are well planked and approaches properly made. Crossing signs are at all highways; they are diamond shape, with 8 and 9 inch letters. There are no whistle or mile posts erected. Whistle posts are being made and distributed for erection. The coaches are in good condition. Drinking water is provided. Tools are in center of cars. The cars are equipped with automatic couplers, heated by steam and lighted with oil. The sections are 10 miles long and have one foreman and five men to each. Section men are provided with flags and lanterns. No regular track walker is employed. The carpenter force on the entire road consists of 1 foreman and 4 men.

Your Inspector would recommend that foundations at the Stony Brook viaduct be given attention, and that the metal work be thoroughly cleaned and painted. The trestle at Swains should be rebuilt, filled or abandoned. Also the trestles on the balance of the line, from Angelica to Swains, should be rebuilt or very extensively repaired. Narrow cuts should be widened and proper ditches made.

Narrow Gauge Division.

(Inspected June 14, 1899.)

The Narrow Gauge Division of the Central New York and Western Railroad extends from Olean to Bolivar, a distance of 18 miles.

The road is single track, 3-foot gauge, and laid with steel rail 56 pounds to the yard, and iron rail 25, 30 and 35 pounds to the yard. The 56-pound rail is connected by angle plates 21 inches in length, with 4 bolts; the 25, 30 and 35-pound rail is connected by fish plates 14 and 15 inches in length, with 4 bolts. There are about 5 miles of the track laid with the 56-pound steel rail; it is laid principally on curves, and the lighter iron rail is laid upon tangents and in sidings and yards. The ties in main track are largely chestnut and cedar, a few oak and some hemlock; they are 6 x 8 inches and mostly 8 feet in length; a few are 6 feet in length. The ties in sidings and yards are hemlock, chestnut and cedar, and are of same dimensions as those used in main track. Fifteen ties are used to a 30-foot rail. The maximum curve is 28 degrees. The maximum grade, 110 feet per mile. The cuts are nearly all full width and slope; a few are narrow. The embankments are of fair width and slope. Some ditches are nearly filled, and ditching generally is deficient; no sub-drainage in use. The ties are in poor condition; about 25 per cent. should be renewed this season, and in many places new ties should be put in at once, in order to make the track reasonably safe. The ties are full spiked, but many ties are so rotten that the spikes do not hold. The switch ties are also bad, and many entirely new sets are needed. The 56-pound steel rail is in fair condition for the rate of speed maintained (about 20 miles per hour); the lighter iron rail is much worn and badly bent; this rail should be replaced, as it is too far gone to be fit for further use in track. Angle and fish plates are full bolted; some bolts have nuts loose. The joints, line and surfacing are poor. Curves are properly elevated for moderate speed. Gravel ballast in very limited quantity is used. The switches are stub. Frogs are rigid. Switch stands have targets and are well painted. The frogs and guard rails are not blocked.

The Western New York and Pennsylvania Railroad is crossed at grade at "White House." Movement of trains over crossing is controlled by cross-board on high pole located at the crossing. When the board is in a horizontal position, train on the Western New York and Pennsylvania Railroad has right to cross; when the board is in a diagonal position, train on the Central New York and Western Railroad has right to cross. All trains on Central New York and Western Railroad come to full stop before

going upon the crossing, and then proceed when the signal is in position giving them the right to cross. Trains on the Western New York and Pennsylvania are reported as not stopping.

The right of way is not all fenced. Where stock is pastured fences are fair, but opposite grain fields and meadow lands the fences are poor and, in some cases, entirely lacking. Trees, brush and weeds are cut and the right of way fairly clean. The condition of yards is medium.

Bridges, trestles and open culverts require many repairs; they are principally constructed from hemlock timber, and some poor or decayed timber was found in many of them. New timbers are being put in in place of those needing most repairs, and arrangements are made for repairing others. The superintendent and his employees appear to thoroughly understand what is needed and are doing what they can, with their limited means, to keep all repaired. There are no cattle guards.

The stations are in fair condition, are clean and tidy. There is a sign on each giving name of same. All are small stations. Agents are not uniformed, but wear a badge. Station grounds are fairly clean. Station platforms are plank and are in fair condition. There are no mile or whistle posts. The equipment consists of two locomotives, weighing about 25 tons each, 4 coaches, 2 baggage and about 35 box and flat cars. The passenger cars are in good condition; they have automatic couplers, are heated by stoves and lighted by oil lamps. The freight cars have pin and link couplers and hand brakes. The length of each section is 9 miles, and a foreman and 5 men are regularly employed upon each. At the present time the force is increased 3 men to each section. Section men are provided with flags and lanterns. The highways are generally well planked. The crossing signs are boards, with 6-inch letters. An overhead bridge in Olean yard has but 18 feet clearance above the rail, and no warning signals are placed to notify trainmen of danger.

Recommendations: That extensive tie renewals be promptly made; that the worn and bent iron rail in main track be replaced by new rail; that all decayed timber in bridges and trestles be taken out and new put in its place; that crossing signs be made legal as to lettering, etc.; that warning signals be placed each side of the low overhead bridge at Olean.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the entire line of railroad was to be rebuilt.

CHATEAUGAY RAILROAD.

(Inspected July 10 and 11, 1899.)

The Chateaugay Railroad extends from Plattsburgh to Lake Placid, a distance of 82.75 miles. The road is single track, and three-foot gauge, excepting that portion from Saranac Lake to Lake Placid, where a third rail standard gauge is laid, to accommodate the cars of the Mohawk and Malone Railway, which are run upon the tracks of the Chateaugay Railroad between those points. A third rail standard gauge is now being laid from Plattsburgh to Cadyville, a distance of about twelve miles, and into mills between those points. The rail is steel, weighing 46, 56, 62 and 65 pounds to the yard. The 46-pound rail is connected by McKenzie joints or by angle plates 20 inches in length with 4 bolts; the 56-pound rail by fish plates 22 inches in length, with 4 bolts, and the 62 and 65 pound rail by angle plates 19 x 24 inches in length, with 4 bolts. The ties in narrow gauge are 6 x 6 inches and 6 feet in length. Where third rail is laid the ties are 6 x 6 inches and 8 feet in length. They are nearly all spruce; a few hemlock are used. Sixteen ties are laid to a 30-foot rail. The cuts are taken out to proper width and slopes. The embankments are generally full width; a few are narrow and should be reinforced. The roadway is well ditched. The ties are in very good condition and very few will require renewing this season, excepting between Saranac and Lake Placid, where about ten per cent. should be replaced. There are no tie plates in use. The 46 and 56 pound rails are considerably worn, especially at the joints; the 62 and 65 pound rails are in fair condition. Angle and fish plates are generally full bolted, but too many bolts have loose nuts, which should be screwed up and kept tight. Many joints of the worn rail are low; the joints of the heavier rail are in fairly good surface, and the general surface of track is very fair, as is also the alignment. The road winds among the mountains, and abounds in sharp curves and heavy grades. The maximum curve is 16 degrees at Cadyville, and the maximum grade 170 feet to the mile near same place. All curves are well lined and have about right elevation for speed of trains maintained. The switches are mainly stub, only a few point being used; they are in very good condition. Switch stands are nearly all rigid; a few lack targets and have no attachment for holding lamp. The frogs are rigid. Frogs and guard rails are not blocked. The track is ballasted with sand and gravel in fair quantity. Many shims remain which should be removed.

A branch track of the Delaware and Hudson Company's railroad crosses the main track of the Chateaugay Railroad at grade near Plattsburgh, and is protected by ball signal. Chateaugay trains do not stop where signal is in their favor.

A portion of the right of way is fenced, but the fences are in very poor condition. A large part of the county through which the road runs is wilderness, and there no fences are maintained. The right of way is well cleared from Plattsburgh to Lyon Mountain; beyond that point the clearing is narrow and much brush and small trees remain. The yards and sidings are in fair condition, with very little old timber or rubbish lying about. The highway crossings are in fair condition; a few need new planking. The long board and diamond-shaped crossing signs are used; a few crossings have no signs, and quite a number need painting; the letters are of the proper size. Warning signals are placed where overhead obstructions are less than 20 feet above the rail. There are no cattle guards in use. Whistle posts are located at proper places; many of them are dim and should be painted. There are no mile posts.

There are but three spans of iron bridges on the road; they are in good condition excepting lack of paint. There are 12 timber trestles, from 75 to 1,000 feet in length and 10 to 40 feet in height; the timber is spruce and much of it is partially decayed. Considerable repairs have been made and more are contemplated. The structures are not unsafe at the present time, but will require careful watching and frequent repairs; in fact, the time has arrived when it is not economical to repair further, and they should be rebuilt or filled. The culverts, cattle passes, etc., are generally in good condition; many of them have been recently renewed and all are being properly cared for.

The sections are $5\frac{1}{2}$ miles, and a foreman and four men are employed upon each. Flags and torpedoes are furnished each gang. Regular track walkers are not employed. The stations are neat and clean and in good sanitary condition. There is a sign upon each giving its name. The larger stations are furnished with drinking water; small ones are not. Time tables are posted. The agent can furnish checks to all points to which he sells tickets. The station platforms are plank and in good condition, excepting the one at Russia, which is to be renewed soon. The station grounds are in fair condition. Station employees wear uniforms.

The coaches are in good condition, with drinking water in each. They are furnished with tools, which are properly located in centers of the cars. The cars are equipped with automatic couplers and air brakes, are heated by stoves and hot water and lighted with oil lamps. Freight cars are in fair condition. About three-fourths are equipped with automatic couplers and the balance are to be fitted out soon; all have hand brakes. Grab irons are on the sides and ladders on the ends of box cars. Four-wheel ore cars are used between the mines at Lyon Mountain and

Plattsburgh. Car repairers, when at work, are protected by a blue flag.

Recommendations: That the much worn and battered light rails be replaced; that missing track bolts be supplied, and all loose nuts be screwed up tight and kept so; that all switch stands have targets with proper attachments for lamp; that the iron bridges be cleaned and thoroughly painted, and that the trestles be carefully watched and thoroughly repaired, renewed or filled promptly.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company replied that the recommendations would be complied with without delay.

COOPERSTOWN AND CHARLOTTE VALLEY RAILROAD.

(Inspected July 27, 1899.)

The Cooperstown and Charlotte Valley Railroad extends from Cooperstown to Davenport Center, a distance of 23.99 miles. The road is single track, standard gauge, and laid with 56-pound steel rail. The rail on about eighteen miles of the road is connected by angle plates 22 inches in length, with 4 bolts; and on the remaining portion of the road about six miles by fish plates 22 inches in length, with 4 bolts. The ties, about 70 per cent. chestnut and 30 per cent. oak, are 6 x 9 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The cuts are taken out to proper width and slopes. The embankments are full width, with proper slopes, excepting on that portion of the road from Davenport Center to Cooperstown Junction, where a portion of them are somewhat narrow and slopes steep. These embankments are being reinforced with materials taken from ditches and side of cuts. The ditches are in very fair condition. No subdrainage is used. The ties are in very fair condition; about 11,500 were renewed last season and 9,300 have been renewed this season. More new ties are on hand and will be put in as rapidly as possible. No tie plates are used. The rail is very good, excepting about three miles at the Davenport Center end of the road, where it is very much worn, especially at the joints. The angle and fish plates are full bolted, but many of the nuts should be tightened. The line and surface of the track are fair, curves are well lined and have regular and fair elevation. The general alignment is good. The maximum curves are about four degrees. The maximum grades are about 80 feet to the mile. Main track switches are all split point; yard switches are stub.

Main line switches have automatic stands; yard switches have rigid stands. All switch stands have targets, and paint on them is fair. Main line frogs are spring rail. Frogs and guard rails are not blocked. The track is ballasted with gravel in fair quantity, and more ballasting is now being done. Gravel has been distributed and a portion of it put in on about nine miles of track this season. No shims remain in use.

The Delaware and Hudson Company's Railroad is crossed by overhead bridge near Cooperstown and Charlotte Valley Junction, and a branch track connects with that railroad near this point.

The right of way is fenced. Fences are principally wire and not very well maintained. The trees are cut; some small brush and weeds remain on the right of way.

The yards and sidings are generally clear of rubbish, and tracks are in fair condition.

Highway crossings are properly graded and planking is good. The crossing signs are nearly all diamond shape, a few are long boards extended across the traveled road. A few need painting, and nearly all of them have letters less than the legal size.

There are no cattle guards, no whistle posts and no mile posts.

An overhead bridge near Cooperstown and Charlotte Valley Junction clears the track but 17 feet and 10 inches, and there are no warning signals erected. The bridges and trestles between Cooperstown and Charlotte Valley Junction are well maintained. The trestle and truss stringer structures over Charlotte Creek, between Cooperstown and Charlotte Valley Junction and Davenport Center, are in dilapidated condition; they have been repaired and reinforced, but there is yet much old and partially decayed timber remaining. These structures should be rebuilt at once. The masonry in a few of the small culverts is poor and several of them should be rebuilt very soon. The attention of the management was called to all such when this inspection was made.

The length of each section is six miles, and a foreman and five trackmen are employed upon each.

The stations were found clean and sanitary condition good. Drinking water is provided in each and a time table of the road is posted; a sign is upon each giving its name. Agents can furnish checks to all points to which they sell tickets. The station platforms are plank and well maintained. The station grounds are in fair order.

The yards and sidings are free from rubbish, and the tracks in medium condition. Station employees wear uniform caps and badges indicating their employment.

The coaches are in fair condition, with drinking water in each; they are furnished with tools properly located in center of cars; they have automatic couplers and air brakes, are heated by stoves and lighted with oil lamps. Most of the box cars have automatic couplers and the balance are being equipped; air brakes are used on a portion of them and are being put on the balance. The few flat cars owned by the road have pin and link couplers and hand brakes.

Recommendations: That the trestle bridge over Charlotte Creek be rebuilt immediately; that warning signals be erected at the overhead bridge where the clearance is less than 20 feet; that mile and whistle posts be erected at the proper places; that cattle guards be put in and maintained at highway crossings; that crossing signs be made with 9-inch letters, as required by law; that the fences be put in proper condition.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The attention of the company was particularly called to the trestle and truss stringer structures over Charlotte Creek. The company informed the Board that several of the recommendations of the inspector had already been carried out, including the strengthening of the trestle bridge over Charlotte Creek, and that the balance of the recommendations would be carried out as fast as practicable.

DANSVILLE AND MT. MORRIS RAILROAD.

(Inspected November 22, 1899.)

The Dansville and Mt. Morris Railroad extends from Dansville to Mt. Morris, a distance of 15.00 miles. The road is single track and standard gauge. Five miles are laid with 62-pound steel rail, $3\frac{1}{2}$ miles with 65-pound steel rail and the balance with 60-pound iron rail. The 62 and 65 pound rail is connected by angle plates 24 inches in length, with 4 bolts, and the iron rail by fish plates 20 inches in length, with 4 bolts. The ties (oak, chestnut and cedar) are 6 x 8 inches and 8 feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of fair width and slope. The roadway is poorly ditched, and no sub-drains are in use. The ties are fairly well spaced and full spiked; many of them are much decayed, and at least 25 per cent. so much so as to be unfit to remain through the winter; about 1,200 have been renewed this season, and, approximately, 800 more are distributed and are to be put in at once. This will not put the track in proper condition for the winter, however, and several thousand more should be used. The 62-pound rail is in fair condition, the 65-pound rail new, and the iron rail very much worn and surface bent. The $3\frac{1}{2}$ miles of 65-pound

rail were laid this season, replacing 60-pound iron rail. The angle plates on the 65-pound rail are good; on the 62-pound rail a portion of them are bent. The fish plates are much worn and bent. Many track bolts are missing and a large number are loose. The joints are generally low, the surface uneven and the line irregular. The curves are not well lined, but the elevation is about right for the slow speed (maximum 20 miles per hour) maintained. The curves are very light, none exceed three degrees, and the grade practically level. Stub switches are used entirely and are not generally in proper condition, the ties and head blocks being poor. A few of the switches are three throw. The switch stands are rigid and have well-painted targets. The frogs are rigid and in fair condition. Frogs and guard rails are not blocked. Very little cinder ballast is used. No railroads are crossed at grade. There is but one iron bridge on the road, and that is in good condition; it is, however, erected on pile bents, which are getting poor and will require renewal soon. There are about fifty other openings in the road, consisting of pile and timber trestles, open culverts and cattle passes, without masonry, and a large portion of them are old, requiring renewal; a few of them need prompt attention. They were pointed out to the superintendent of the road, who advised they would be immediately cared for. The bridge ties are 6 x 8 inches and 8 feet in length, and are spaced 16 inches, center to center. The guards are 4 x 6 inches, notched and bolted to every fifth tie, but many of the floors have no guard timbers. Wooden box culverts are used to convey water through embankments; most of them are in bad condition and require prompt renewal. The fences are very poor and much of the way lacking. All large trees have been cut, but some small trees and brush still remain. Grass and weeds excepting close along the track, have not been cut this season. The yards and sidings are generally in poor condition and rubbish is scattered about them. The highway crossings are in very good condition. The crossing signs are diamond shaped with letters six to seven inches in length; at several crossings there are no signs. There are no cattle guards. Whistle posts are generally missing. There are no overhead obstructions.

The sections are five miles in length, and a foreman and three trackmen are employed upon each; they are provided with a flag and lantern. No regular track-walker is employed. The stations are in medium condition and are clean. There is no sign upon them and time tables are not posted in waiting rooms. Agents can check baggage to all points to which they sell tickets. The station grounds are in medium condition. The station plat-

forms are of plank and gravel. Station employees are not uniformed. The road has one locomotive, weighing about thirty-three tons, but has no other rolling stock. The passenger cars and other cars used are obtained from the Erie Railroad Company.

Recommendations.—That the roadway be properly ditched; at least 25 per cent. of the cross ties be promptly renewed; iron rail be replaced with steel; track be properly lined and surfaced; stub switches be replaced with split point switches; poor trestles, open culverts and cattle passes be renewed as promptly as possible, and until this can be done they be very carefully watched and necessary repairs made; wooden box culverts be replaced with stone culverts or iron pipe; fences be put in proper repair; small trees, brush and weeds upon the right of way be cut and removed; missing crossing signs be replaced and letters made the required size (nine inches in length); cattle guards be put in and maintained at each boundary of all highways crossed; whistle posts be erected and maintained 80 rods each side of all highway crossings; a sign be placed upon each station giving its name, and that a time table be posted in each waiting room; and until the condition of the track and the roadway structures are materially improved, the speed of trains be restricted to 15 miles per hour.

A copy of this report was sent to the receiver of the company with a letter making the recommendations of the inspector the recommendations of this Board. He replied stating that "I intend to put the road in as good order as possible consistent with my ability to do so."

ERIE RAILROAD.

Main Line, New York Division.

(Inspected October 16, 1899.)

The New York Division, main line, of the Erie Railroad extends from Jersey City, N. J., to Port Jervis, N. Y., a distance of 87.22 miles, and the portion in the State of New York from the New Jersey state line to Port Jervis, a distance of 56.12 miles. The road is double track and standard gauge; about 21 miles of the road is laid with 74-pound and the remaining portion with 90-pound steel rail. The 74-pound rail is connected by angle plates 40 inches in length, with 6 bolts, and the 90-pound rail by angle plates 30 inches in length, with 6 bolts. The ties (about three-fourths oak and one-fourth yellow pine) are 7 x 9 inches and 8½ feet in length; 16 ties are laid to a 30-foot rail. The cuts are taken out to full width and proper slope. The em-

bankments are wide and of full natural slope. The roadway is well drained. Wet cuts are sub-drained with tile, and the results justify the necessary expense. The ties are in good condition; they are evenly spaced and full spiked. Tie plates are extensively used and the results are very satisfactory. The 74-pound rail is showing wear; the 90-pound rail is in good condition. All angle plates appear to be in good condition; they are full bolted and no loose bolts were discovered. The joints, line and surfacing are good. The curves are well lined and correctly elevated for the speed of trains. The maximum curve is 7 degrees, east of Port Jervis. The maximum grade is 79 feet per mile, at Middletown. The switches are all split point, and the frogs spring rail. All switches have stands (mainly rigid), with well painted targets. Facing switches have high targets and are generally interlocked. Frogs and guard rails are not blocked. The track is ballasted with gravel and stone in good quantity. No steam railroads are crossed at grade. All junctions are protected by interlocking. Between the New Jersey state line and Newburgh junction, the Sykes system of block signals is in use, and from Newburgh junction to Port Jervis, the ordinary bell signals are used. The right of way is fenced. Fences are stone wall, board, and wire, and are only in medium condition. No trees, brush or weeds remain, and the right of way is generally clean, no refuse material being allowed to accumulate. Derailing switches are in all sidings where grade descends toward main track. The bridges, open culverts and cattle passes are all in good condition. All of them have iron or steel superstructure, on masonry; some of them need painting, and a force of painters are now engaged upon that work. All bridges have good and sufficient floors, with guard timbers notched on the ties and securely bolted to them. Only the long bridges have inside guard rails. The masonry is generally good, and repairs or renewals have been made where necessary. The openings under or through the embankments are stone arch and box culverts and iron pipe; all in good condition. The highway crossings are properly graded and well planked. Both the diamond and "X" form of crossing sign is used; they are in good condition and well painted; a few have letters less than the legal size, which are to be corrected when repainted. Warning signals are in place at proper distance each way from all overhead obstructions less than $20\frac{1}{2}$ feet above the track. The cattle guards are of the wooden slat pattern. Some crossings were noted with no cattle guards. The mile posts are in good condition. Whistle posts are at the prescribed distance from all highway crossings. The sections are $4\frac{1}{2}$ miles in length, and

a foreman and seven trackmen are employed upon each, also a regular track walker; each gang is furnished with flags, lanterns and torpedoes. Nine crossings are protected by flagmen and gates, one crossing by a flagman and six crossings are protected by electric bells. The stations are neat and clean and the sanitary condition good; there is a sign upon each giving its name. Most stations are furnished with drinking water. Very few waiting rooms have time tables posted in them. The agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean. At many stations are well kept lawns, with flowers, ornamental shrubs and plants, presenting an attractive appearance. The station platforms are cement, plank and gravel, in good condition. Pails of water are maintained as a protection against fire. The agents and helpers wear a uniform and badge indicating their employment. The coaches are in good condition, with drinking water in each; they are furnished with the required tools, located in the center of each. The cars are equipped with automatic couplers and air brakes; they are heated by steam and lighted with gas and oil lamps. All trainmen are uniformed. Ninety per cent. of the freight cars are equipped with automatic couplers, and 50 per cent. with air brakes. All have grab-irons on the sides and ladders on the ends. Car repairers, when at work, are protected by a blue flag or lantern.

Since the last inspection (1897) 90,000 cross-ties have been used in repairs. About 41 miles of new 90-pound rail has been laid replacing lighter rail. Thirty-seven thousand eight hundred lineal feet of drain tile has been laid in wet cuts. Bridges Nos. 26 and 40 have been rebuilt. Number 19½ has been strengthened by pile trestle, and Nos. 10, 12 and 14 have received new floors. A culvert west of Chester and another east of Tuxedo have had extensive repairs made to masonry. A new combined passenger and freight station has been erected at Southfields. A new creamery has been erected at Turners, and the one at Otterkill changed and improved. The stations at Suffern, Hillburn, Ramapo, Arden and East Main street, Middletown, have been painted, and a new interlocking plant has been installed at top of Oxford grade.

Recommendations: That the fences be put in proper repair; that missing cattle guards be replaced; that inside guard rails be maintained on all bridges; and that time tables be posted in all waiting rooms.

Newburgh and New York Branch.

(Inspected October 17, 1899.)

The Newburgh and New York Branch of the New York Division extends from Newburgh Junction to Vails Gate Junction, a distance of 12.64 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties (yellow pine, oak and chestnut) are 7 x 8 inches and 8 feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of full width and slope. The roadway is well ditched. Sub-drainage is extensively used. The ties are in very good condition. The condition of the rail is fair. The connections are good. All angle plates are full bolted and no loose bolts were found. The joints, line and surfacing are good. Curves are well lined and have proper elevation. The maximum curve is 4 degrees, and the maximum grade 59 feet per mile. The switches are all split joint, and the frogs both spring rail and rigid. All switches have stands, with targets (mainly high) well painted. Frogs and guard rails are not blocked. The track is well ballasted with gravel. The fences are in medium condition. No trees, brush or weeds are on the right of way. The yards and sidings are clean and in good condition. The bridges, open culverts and cattle-passes are in good condition and the masonry in fair condition. All bridges have standard floor, and are well maintained; inside guard rails are only maintained on long bridges. The openings under or through embankments are stone arch and box culverts and iron pipe, all in good condition. The highway crossings are properly graded and well planked. The diamond and "X" form of crossing sign is used; all are well painted. Warning signals are in place where overhead obstructions are less than 20½ feet above the track. The cattle guards are of the wooden slat pattern. Some crossings were noted without guards. Mile posts are maintained. The whistle posts are at prescribed distance from all highway crossings. The sections are 6½ miles in length, and a foreman, 3 trackmen and a track walker are employed upon each; they are furnished with flags, lanterns and torpedoes. Three highway crossings are protected by electric bells. The stations are in the same general condition as those on the main line, and same remarks apply. (For remarks on equipment, etc., see report on main line.)

Since last inspection (1897) 6,500 cross ties have been renewed. Bridges Nos. 5 and 6 and two open culverts have been furnished with new floors. Iron pipe has been put in, and an open culvert near Mountainville filled. A new combined passenger and

freight station has been erected at Cornwall. Extensive repairs have been made to the station at Central Valley, and the stations at Woodbury and Mountainville painted. The road is equipped with block signals operated by telegraph, under control of train dispatchers.

Recommendations: That fences be repaired and missing cattle guards replaced; that inside guard rails be maintained on all bridges; and a time table posted in all waiting rooms.

Newburgh Branch.

(Inspected October 17, 1899.)

The Newburgh Branch of the New York Division extends from Greycourt to Newburgh, a distance of 18.73 miles; 12.40 miles of the road are single track, and 6.33 miles double track; standard gauge and laid with 63, 74 and 80-pound steel rail. The 63-pound rail is connected by angle plates, 24 inches in length, with 4 bolts; the 74-pound by angle plates, 40 inches in length, with 6 bolts; and the 80-pound by angle plates, 30 inches in length, with 6 bolts. The ties (yellow pine, oak and chestnut) are 7 x 9 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of full width and slope. The ditches are in good condition. Sub-drains are extensively used in wet cuts. The ties are in very fair condition. The 63-pound rail is in fair condition, the 74-pound in very fair condition, and the 80-pound in good condition. All connections are good; the angle plates are full bolted and all bolts apparently tight. The joints, line and surfacing are good. Curves are in good line and have proper elevation. The maximum curve is 4 degrees, near Vails Gate Junction. The maximum grade is 65 feet to the mile, west of Vails Gate Junction. The switches are all split point. Frogs are spring rail and rigid. All switches have stands, with targets (mainly high) well painted. Frogs and guard rails are not blocked. The track is ballasted with gravel in fair quantity. The fences are in poor condition. The right of way is free from trees, brush and weeds. The yards and sidings are in good condition and free from rubbish. Bridges, trestles, open culverts and cattle passes are all in good condition. The abutments and piers are very good masonry. All bridge structures have standard floors, which are well maintained. Inside guard rails are only maintained on long structures. The openings under or through embankments are stone arch and box culverts and iron pipe, all in good condition. Highway crossings are well planked and properly graded. Diamond and "X" form of crossing signs are used; all are in good condition and well painted; a few have

7-inch letters, which are to be changed to legal size when repainted. Warning signals are in place where overhead obstructions are less than $20\frac{1}{2}$ feet above the track. The cattle guards are of the wooden slat pattern; a few are missing. Mile posts are maintained. Whistle posts are at the prescribed distance from all highway crossings. The sections are $6\frac{1}{2}$ miles in length, and a foreman, 3 trackmen and a track walker are employed upon each. Each gang is furnished with flags, lanterns and torpedoes. One highway crossing is protected by a flagman and gates, one by a flagman, and one by an electric bell. The stations are in the same general condition as those on the main line, and the same remarks apply. (For remarks on equipment, etc., see report on main line.)

Since last inspection (1897) 16,000 cross ties have been renewed. Bridge No. 4 has been replaced with a new and heavier iron bridge and the masonry entirely renewed. New floors have been laid on Nos. $\frac{1}{4}$, $\frac{3}{8}$ and 8. A new coaling trestle has been erected at West Newburgh, and the turntable at Newburgh reconstructed. From Vails Gate Junction to Greycourt the road is equipped with block signals operated by telegraph, under control of train dispatchers, and from Vails Gate Junction to Newburgh with ordinary bell signals.

Recommendations.—That the fences be repaired and missing cattle-guards replaced; that inside guard rails be maintained on all bridges; and a time table be posted in all waiting rooms.

Montgomery Branch.

(Inspected October 17, 1899.)

The Montgomery Branch of the New York Division extends from Goshen to Montgomery, a distance of 10.43 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rail is connected by angle plates 24 inches in length, with 4 bolts. The ties (yellow pine, oak and chestnut) are 6 x 7 to 7 x 9 inches and $8\frac{1}{2}$ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of fair width and slope. The ditches are in very fair condition. No sub-drainage is in use. The ties are in fair condition. The rail is somewhat worn, especially at the joints. The connections are very good. All angle plates are full bolted, and bolts are nearly all tight. The joints, line and surfacing are fair. Curves are very well lined and properly elevated. The maximum curve is 9 degrees and the maximum grade 40 feet per mile. Split point, stub and one Wharton switches are used; a few three-throw stub switches remain in the Montgomery yard. All switches have stands, with well-painted targets. Both

spring rail and rigid frogs are used. Frogs and guard rails are not blocked. The track is ballasted with gravel in medium quantity. The New York, Ontario and Western Railway is crossed at grade at Campbell Hall Junction. The crossing is protected by semaphore signals, interlocked; all trains stop. The fences are in fair condition. No trees, brush or weeds remain on the right of way. The yards and sidings are in fair condition and free from refuse material. Derailing switches are put in all sidings where grade descends toward main track. The bridges, open culverts and cattle passes are in good condition. Small openings have wooden stringers; all are sufficient, but too much small blocking is used under the ends of a portion of them; thicker wall plates or masonry should be used instead. All bridge structures have standard floors, which are in good condition. The masonry is generally in very fair condition. The openings under or through embankments are stone culverts and iron pipe, all very good. The highway crossings are well planked. The diamond-shaped crossing sign, well painted, with 9-inch letters, is used at all highways. There are no overhead obstructions. The cattle guards are of the wooden slat pattern; they are lacking at some crossings. Mile posts are not maintained. Whistle posts are at the prescribed distance from all highway crossings. The sections are $6\frac{3}{4}$ miles in length, and a foreman and three trackmen are employed; the gang is furnished with flags, lanterns and torpedoes. There are no regular track walkers. One highway crossing is protected by a flagman. The stations are very good, and in the same general condition as those on the main line and the same remarks apply. (For remarks on equipment, etc., see report on main line.)

Since last inspection (1897), 6,800 cross-ties have been renewed. Bridge No. 1, formerly a wooden structure, has been replaced by an iron bridge. The creamery at Neeley Town has been improved. Iron pipe has been put in an open culvert and the opening filled.

Recommendations.—That all stub switches in main track be changed to split point; that thicker wall plates or additional masonry be substituted for the small blocking under the stringers of small openings; that inside guard rails be maintained on all bridges; that missing cattle-guards be replaced; and a time table be posted in all waiting rooms.

Pine Island Branch.

(Inspected October 17, 1899.)

The Pine Island Branch of the New York Division extends from Goshen to Pine Island, a distance of 11.64 miles. The road is single track, standard gauge, and laid with 63-pound steel rail.

The rail is connected by angle plates 24 inches in length, with 4 bolts. The ties (yellow pine, oak and chestnut) are 6 x 7 to 7 x 9 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of fair width and proper slope. The ditching is fair. No sub-drainage is used. The ties are in fair condition. The rail is somewhat worn and flattened at the ends; the connections are very good. All angle plates are full bolted, and but few bolts were found loose. The joints, line and surfacing are fair. Curves are fairly well lined and properly elevated. The maximum curve is 5 degrees and the maximum grade is 45 feet to the mile. The switches are split point, stub and Wharton. Both rigid and automatic stands are used, and all have well painted targets. Frogs are rigid and spring rail. Frogs and guard rails are not blocked. The track is ballasted with gravel and cinders in medium quantity. The fences are in very good condition. No trees remain upon the right of way; some small brush is left standing near the fences; weeds and grass are cut and removed. The yards and sidings are in fair condition. The only iron bridge on the road is a deck plate girder in good condition and on very fair masonry. All open culverts and cattle passes have wooden stringers, usually on bents or timber, with no masonry; all are in very fair condition, with standard floors, well maintained. The openings under or through the embankments are stone culverts and iron pipe in good condition. The highway crossings are in good condition; they are well planked, and the approaches are properly graded. Both the diamond and the "X" form of crossing signs are used; all are well painted. A few have letters seven inches in length, which are to be made legal size when repainted. Warning signals are in place at an overhead bridge which is less than 20½ feet above the track. The cattle guards are of the wooden slat pattern; some are missing. Mile posts are maintained, and whistle posts are at the prescribed distance from all highway crossings. The sections are six miles in length, and a foreman and four trackmen are employed upon each; each gang is furnished with flags, lanterns and torpedoes. No highway crossings are protected. The stations are small and in same general condition as those on the main line, and the same remarks apply. (For remarks on equipment, etc., see report on main line.)

Since last inspection (1897) 6,800 cross-ties have been renewed. Iron pipe has been put in and open culverts filled at Goshen, Orange Farm and Pine Island. New creameries have been erected at Florida and Big Island.

Recommendations: That missing cattle guards be replaced; that loose bolts be tightened, and time table posted in all waiting rooms.

Crawford Branch.

(Inspected October 16, 1899.)

The Crawford branch of the New York division extends from Pine Bush to Crawford junction, on the main line of the New York, Ontario and Western Railway, from which place the trains run upon that company's tracks to the junction with the Erie main line at Middletown. The length of the branch is 10.22 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rail is connected by angle and fish plates, 24 inches in length, with 4 bolts. The ties (mainly chestnut, a few yellow pine and oak) are 6 x 7 to 7 x 9 inches and 8½ feet in length; 14 are laid to a 30-foot rail. The cuts and embankments are of fair width and slope. The ditches are in medium condition. No sub-drainage is used. The ties are generally in fair condition, but more renewals should be made this season. The rail is considerably worn; the connections are only fair, the fish plates being much worn. All connections are full bolted, but many bolts are loose. The joints, line and surfacing are medium. Curves are fairly lined and the elevation is correct. The maximum curve is five degrees, and the maximum grade is 45 feet per mile. Split point switches, with rigid stands, are used; all have well painted targets. Frogs are spring rail and rigid. No frogs or guard rails are blocked. The track is lightly ballasted with cinders and gravel. The fences are not well maintained. No trees, brush or weeds were found on the right of way. The yard and sidings are fairly clean, and tracks in fair condition. There are no bridges on the road. Open culverts and cattle passes are in fair condition; nearly all have wooden stringers, and all have standard floors, well maintained. The masonry is generally without cement, and much of it needs repairs or rebuilding. Openings under or through the embankments are stone culverts and iron pipe. The highway crossings are well planked. Crossing signs are of the diamond and "X" form; they are well painted. Some have five-inch letters, which are to be changed to legal size. An overhead highway bridge near Circleville, 18 feet above the track, has no warning signals. The cattleguards are of the wooden slat pattern. Mile posts are not maintained. Whistle posts are at the prescribed distance from all highway crossings. The track force consists of one foreman and five trackmen. No regular track walker is employed, but the track is patrolled daily. The stations are small and in same general condition as those on the main line, and same remarks apply. (For equipment, etc., see report on main line).

Since the last inspection (1897) 4,400 cross ties have been renewed. Iron pipe has been put in and open culverts filled at Thompson's Ridge and Pine Bush.

Recommendations: That the loose track bolts be tightened, the fences repaired, poor masonry rebuilt and warning signals erected at overhead bridge near Circleville.

New Jersey and New York Division.

(Inspected October 18, 1899.)

The main line of the New Jersey and New York Division in the State of New York extends from the New Jersey State line to Nanuet junction 2.30 miles, and from Spring Valley to Haverstraw 11.55 miles, a total length of road of 13.85 miles. The road is single track, standard gauge, and laid with 60-pound steel rail. The rail is connected by angle plates 24 inches in length, with 4 bolts. The ties (one-half oak and the balance yellow pine and chestnut in about equal proportions), are 7 x 9 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are rather narrow and the ditches generally poor. No sub-drainage is used. The rail is in condition a little above medium. The ties are generally good, although some renewals are needed. No tie plates are in use. The connections are good. All angle plates are full bolted and no bolts were found loose. The joints, line and surfacing are medium. Curves are in very good line and are properly elevated. The maximum curve is nine degrees and the maximum grade 85 feet per mile. All split point switches are used in main track. Automatic stands, with well painted targets, are used at all switches. The frogs are mainly rigid. Frogs and guard rails are not blocked. The track is ballasted with gravel in medium quantity. No railroads are crossed at grade. Junction is made with the Piermont Branch at Nanuet, and the trains run upon the Piermont Branch track to Spring Valley, a distance of 2.30 miles, at which place a junction is also made, and the trains branch for Haverstraw; the junctions are protected by high target signals. The fences are poorly maintained. The right of way is free from trees, brush and weeds. The yards and sidings are in fair condition. The bridges, open culverts and cattle passes are in good condition; the masonry is fair. All bridge structures have standard floors, which are well maintained. Inside guard rails are laid on long bridges. The openings under or through the embankments are stone culverts and iron pipe; all in good condition. The highway crossings are well planked and properly graded. The diamond-shaped crossing sign is used at all highways; they are well painted, but some have letters six inches in length; all such are to be changed when repainted. Warning signals are in place where overhead obstructions are less than 20½ feet above the track. Very few crossings

have cattle guards; those noted were of the wooden slat pattern. Mile posts are not maintained. Whistle posts are at the prescribed distance from all highway crossings. The sections are $5\frac{1}{2}$ miles in length, and a foreman and five trackmen are employed upon each; all gangs are supplied with flags, lanterns and torpedoes. No regular trackwalker is employed. Two highway crossings are protected by flagmen. The stations are in fair condition, and the remarks on stations, etc., New York Division, main line, apply. (For remarks on equipment, etc., see report on New York Division, main line).

Since the last inspection (1897), 9,000 cross-ties have been renewed.

Recommendations.—That the roadway be thoroughly ditched; that the fences be put in good condition; that missing cattle-guards be replaced; and that inside guard rails be maintained on all bridges.

Piermont Branch.

(Inspected October 18, 1899.)

The Piermont Branch of the New Jersey and New York Division extends from Suffern to Piermont, a distance of 18.00 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties, oak, yellow pine and chestnut, are 7 x 9 inches and $8\frac{1}{2}$ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of good width and proper slope. The roadway is fairly well ditched. No sub-drains have been laid. The ties are not in good condition, and considerable renewals are needed. The rail is much worn and flattened at ends. The angle plates are somewhat worn; all are full bolted, but many bolts are loose. The joints, line and surfacing are only medium. Curves are in fair line and properly elevated. The maximum curve is $5\frac{1}{2}$ degrees, and the maximum grade is 80 feet per mile. All switches are split point, and have automatic stands with well-painted targets. Frogs are about half rigid and half spring rail. No frogs or guard rails are blocked. The track is ballasted with cinders and gravel in medium quantity. The New City Branch crosses at grade at Nanuet. The crossing is protected by high target signals; all trains stop. The Northern Railroad of New Jersey (Branch) is crossed at grade at Sparkill; the crossing is protected by high target signals. The fences are in very poor condition. The right of way is free from trees, brush and weeds. The yards and sidings are in fair condition and free from refuse material. Derailing switches are in all sidings where grade descends toward main track. The

bridges, trestles, open culverts and cattle passes are all in good condition. All have standard floors, well maintained. Inside guard rails are only maintained on long bridges. The openings under or through the embankments are stone culverts and iron pipe, and are all in good condition. The highway crossings are well planked and properly graded. The diamond and the "X" form of crossing signs are used; all are in good condition and well painted; some have letters less than the legal size, which are to be changed when repainted. Warning signals are in place where overhead obstructions are less than twenty and one-half feet above the track. The cattle guards are of the wooden slat pattern; many crossings have no cattle guards. Mile posts are maintained. Whistle posts are at the prescribed distance from all highway crossings. The sections are six miles in length, and a foreman and five trackmen are employed upon each; each gang is furnished with flags, lanterns and torpedoes. No regular track-walker is employed. Two highway crossings are protected by flagmen and one by an electric bell. The stations are generally small but sufficiently large to accommodate the business; they are in the same general condition as those on the main line, and the same remarks apply. (For equipment, etc., see report on main line, New York Division.)

Since last inspection (1897) 11,000 cross-ties have been renewed.

Recommendations.—That decayed ties be renewed, loose bolts tightened, fences repaired, missing cattle-guards replaced, and inside guard rails maintained on all bridges.

New City Branch.

(Inspected October 18, 1899.)

The New City Branch of the New Jersey and New York Division extends from New City Junction to New City, a distance of 4.29 miles. The road is single track and standard gauge; one mile is laid with 60-pound iron rail and the balance with 63-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties, one-half chestnut and the balance yellow pine and oak, are 7 x 9 inches and 8½ feet in length; 16 are laid to a 30 foot-rail. The cuts and embankments are of medium width and full slope. The ditches are in fair condition. No subdrains are used. The iron rail is much worn and is to be replaced with steel. The steel rail is in fair condition for the light traffic of the branch. The ties are in fair condition. No tie plates are in use. The connections are very good. All angle plates are full bolted and all bolts apparently tight. The joints, line and surfacing are fair. Curves are in very good line and elevated sufficiently for

the speed of the trains. The maximum curve is 5 degrees and the maximum grade 75 feet per mile. All switches are split point. Switch stands are automatic; all have well-painted targets. All frogs are rigid. Frogs and guard rails are not blocked. The track is lightly ballasted with gravel. The Piermont Branch is crossed at grade at Nanuet. The crossing is protected by high target signals; all trains stop. The fences are poorly maintained. All trees, brush and weeds are cut and removed, and the right of way is generally clear. The yards and sidings are in fair condition. There is but one bridge, and that but 16 feet clear span; the stringers on same are composed of two 20-inch I beams; it has a standard floor, good masonry and is in good condition throughout. Wooden box culverts are used to conduct water through the embankments. The highway crossings are well planked and approaches well graded. Both diamond and "X" shaped crossing signs are in use; they are well painted. Some have letters but six inches in length, but all such are to be changed to legal size when repainted. There are no overhead obstructions. Cattle guards are generally lacking. There are no mile posts. Whistle posts are at the prescribed distance from all highway crossings. A foreman and three trackmen are employed upon the track; they are furnished with flags, lanterns and torpedoes. There are no station buildings on the road. (For remarks on equipment, etc., see report on New York Division, main line.)

Since the last inspection (1897) 1,500 cross-ties have been renewed, and 3.29 miles second-hand steel rail put in track, replacing 60-pound iron rail.

Recommendations.—That the wooden box culverts be replaced with stone culverts or iron pipe; that missing cattle guards be replaced, and that the fences be put in proper repair.

Northern Railroad of New Jersey Branch.

(Inspected October 18, 1899.)

The portion of the Northern Railroad of New Jersey, of the New Jersey and New York Division, within the State of New York, extends from the New Jersey State line to Nyack, a distance of 5.82 miles, 1.32 miles of which is double and the balance single track; it is standard gauge and laid with 63, 68½ and 80-pound steel rail. The 63 and 68½-pound rail is connected by angle plates, 24 inches in length, with 4 bolts; and the 80-pound by angle plates, 30 inches in length, with 6 bolts. The ties, one-half yellow pine and the balance oak and chestnut, are 7 x 9 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embank-

ments are of full width and slope. The roadway is well ditched. No sub-drains have been laid. The condition of the ties is good. The 63-pound rail is considerably worn; the 68½-pound in fair condition, and the 80-pound in excellent condition. Tin plates are used with the 80-pound rail. All connections are well made; the angle plates are full bolted and no loose bolts were discovered. The joints, line and surfacing are good. All curves are correctly lined and properly elevated for the speed of trains. The maximum curve is 9 degrees and the maximum grade 85 feet per mile. The switches are all split point with rigid stands and well-painted targets (many high targets are used). The frogs are about half spring rail and half rigid. No frogs or guard rails are blocked. The track is well ballasted with stone, gravel and cinders. The Piermont Branch is crossed at grade at Sparkill; the crossing is protected by high target signals. The fences are poorly maintained. No trees, brush or weeds are remaining upon the right of way. The yards and sidings are in good condition and free from refuse material. Derails are in all sidings where grade descends toward main track. The bridges and open culverts are in good condition and the masonry fair. All bridge structures have standard floors, well maintained. Openings under or through the embankments are stone culverts and iron pipe; all in good condition. The highway crossings are properly graded and well planked. The diamond-shaped crossing sign is in place at all highways; they are well painted and the letters are of the legal size. There are no overhead obstructions. No cattle guards are in use. Mile posts are maintained. Whistle posts are at the prescribed distance from all highway crossings. The sections are five miles in length and a foreman and five trackmen are employed; they are furnished with flags, lanterns and torpedoes. No regular track-walker is employed. One highway crossing is protected by a flagman and gates, one by a flagman, and two by electric bells. The stations are in good condition, and the remarks on stations, etc., New York Division, main line, apply. (For remarks on equipment, etc., see report on New York Division, main line.)

Since the last inspection (1897) 3,500 cross-ties have been renewed and 4½ miles new 80-pound rail laid, replacing 63-pound rail.

Recommendations.—That the fences be put in proper repair; that cattle guards be maintained at all highway crossings, and that inside guard rails be maintained on all bridges.

Delaware Division.

(Inspected October 19, 1899.)

The Delaware Division extends from Port Jervis to Susquehanna, 104.37 miles, of which distance 73.17 miles are in the State of New York. The road is double track, standard gauge, and laid with 74 and 80 pound steel rail. The 74-pound rail is connected by angle plates, 40 inches in length, with 6 bolts, and the 80-pound rail by angle plates, 30 inches in length, with 6 bolts. The ties, about three-fourths oak and one-fourth yellow pine, are 7 x 9 inches and 8 feet in length; 16 ties are laid to a 30-foot rail. The cuts are taken out to full width and proper slope. The embankments are all full width and slope. The roadway is well drained. Wet cuts are subdrained with tile. The ties are in good condition; they are evenly spaced and full spiked. Tie plates are extensively used with good results. The 74-pound rail is somewhat worn, especially at the joints; the 80-pound rail is in good condition. The angle plates on the 80-pound rail are in good condition, but many of the angle plates on the 74-pound rail are cracked and should be replaced. All angle plates are full bolted, but on the 74-pound rail a large number were found loose. The joints, line and surfacing are good. The curves are well lined and correctly elevated for the speed of trains. The maximum curves are 6 degrees. The maximum grade, where helping engines are not used, is 16 feet per mile; on the hill going east from Susquehanna the grade is 60 feet per mile, and going west from Deposit the grade is 57 feet per mile. The switches are all split point and the frogs spring rail. All switches have stands (mainly rigid), with well-painted targets. Facing switches have high targets and are generally interlocked. No frogs or guard rails are blocked. The track is well ballasted with stone, gravel and cinders. No steam railroads are crossed at grade. Block signals are in use over the entire division. The right of way is poorly fenced. Trees, brush and weeds are cut and the right of way is generally clean. The yards and sidings are in good condition, neat and clean, and no refuse material is allowed to remain. Derailing switches are in all sidings where grade descends toward main track. The bridges, open culverts and cattle-passes are all in good condition; all have iron or steel superstructures on masonry; paint is poor on a few of them, but arrangements have been made for remedying this. All bridges have good floors, with guard timbers notched on the ties and securely bolted to them. Only the long bridges have inside guard rails. The masonry is generally good, and repairs and renewals have been made where necessary.

The openings under or through the embankments are stone arch, box culverts and iron pipe, all in good condition. The highway crossings are well planked and approaches properly guarded. The crossing signs are all diamond shape and are properly located at all crossings. They are well painted and have nine-inch letters. Warning signals are in place wherever overhead obstructions are less than $20\frac{1}{2}$ feet above the track. Cattle guards are not maintained at the highway crossings. The mile posts are in good condition, and the whistle posts are at the prescribed distance from all highway crossings. The sections are five miles in length, and a foreman, six trackmen and a trackwalker are employed upon each. Each gang is furnished with flags, lanterns and torpedoes. There is one crossing (at Port Jervis) protected by a flagman and gates; one crossing (at Sparrow-bush) protected by a flagman; and three crossings (at Hancock) protected by electric bells. Six night and six day slope watchmen are employed watching dangerous points. The stations are neat and clean and in good sanitary condition; there is a sign upon each giving its name. Principal stations are furnished with drinking water. Time tables are not posted in waiting rooms. The agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean. At the principal stations are well-kept lawns, with flowers and ornamental shrubs, presenting an attractive appearance. The station platforms are cement, plank and gravel, and in good condition. Pails of water are maintained as a protection against fire. The agents and helpers wear a uniform and badge indicating their employment. The coaches are in good condition, with drinking water in each. They are furnished with the required tools, located in the center of the cars. They are also equipped with automatic couplers and air brakes; are heated by steam and lighted by gas and oil lamps. All trainmen are uniformed and wear a badge. Ninety per cent. of the freight cars are equipped with automatic couplers and fifty per cent. with air brakes. All have grab irons on the sides and ladders on the ends. Car repairers, when at work, are protected by a blue flag or lantern.

Since last inspection (1897) 163,000 cross-ties have been renewed and 90,000 tie-plates have been used; 70 miles of track have been rebalasted and 16,000 lineal feet of drain tile have been laid in wet cuts. Bridge No. 23, over South street, Deposit, has been renewed and enlarged. Bridges Nos. 9, 10 and 22 have been painted. A new creamery has been erected at Hankins and a new icehouse at Port Jervis; Hancock and Long Eddy stations have been painted and a new interlocking plant has been installed at Rosas.

Recommendations.—That the fences be put in proper repair; that cattle guards be put in and maintained at each boundary of all highways crossed; that all cracked angle plates be replaced and all loose track bolts tightened; that inside guard rails be maintained on all bridges, and time tables be posted in all waiting rooms.

Susquehanna Division.

(Inspected October 19 and 20, 1899.)

The Susquehanna Division extends from Susquehanna to Hornellsville, 139.74 miles. Of this distance, 127.11 miles are in the State of New York. The road is double track, standard gauge, and laid with 74, 80 and 90-pound steel rail. The 74-pound rail is connected by angle plates, 40 inches in length, with 6 bolts and the 80 and 90-pound by angle plates 30 inches in length, with 6 bolts. The ties (about three-fourths oak and one-fourth yellow pine), are 7 x 9 and 8½ feet in length; 16 ties are laid to a 30-foot rail. The cuts are taken out to full width and proper slope. The embankments are wide and of full natural slope. The roadway is well drained; wet cuts are subdrained with tile and the results are very satisfactory. The ties are not in very good condition; many decayed ones were noticed, which should be renewed. Ties are evenly spaced and full spiked. Many tie plates are used and the results are satisfactory. The 74-pound rail is showing wear, especially at the joints; the 80-pound is in fair condition; and the 90-pound in good condition. The connections are in good condition; all angle plates are full bolted and no loose bolts were discovered. The joints, line and surfacing are good. The curves are carefully lined and correctly elevated for the speed of trains. The maximum curve is 7 degrees, at Corning; the maximum grades are 19 feet per mile. Switches are all split point, and the frogs spring rail. All switches have stands (mainly rigid), with well painted targets. Facing switches have high targets and are generally interlocked. Frogs and guard rails are not blocked. The track is ballasted with gravel and cinders in good quantity. Two branch tracks of the Delaware, Lackawanna and Western Railroad are crossed at grade at Binghamton; each crossing is protected by interlocking, with home and distant signals and derailing switches in all tracks. A branch of the Delaware, Lackawanna and Western Railroad is crossed at grade at Owego; the crossing is protected by interlocking with home and distant signals and derailing switches in all tracks. The Northern Central Railroad connects at Southport Junction, and trains of that road run upon the Erie tracks from that point to Chemung Junction, a distance of about

five miles. The Pennsylvania Division of the New York Central and Hudson River Railroad is crossed at grade west of Corning; the crossing is protected by interlocking, with home and distant signals, and derailing switches in all tracks. Block signals are in use over the entire division. The right of way is fairly well fenced; fences are mainly of wire. All trees, brush and weeds are removed, and the right of way is clean. The yards and sidings are in good condition, and no refuse material is allowed to accumulate. Derailing switches are in all sidings where grade descends toward main track. The bridges, open culverts and cattle-passes are all in good condition; all have iron or steel superstructure on masonry; they are generally well painted, and have good and sufficient floors, with guard timbers notched on the ties and securely bolted to them. Only long bridges have inside guard rails. The masonry is generally good. Repairs and renewals have been made where necessary. The openings under or through the embankments are stone arch, box culverts and iron pipe; all in good condition. The highway crossings are well planked and the approaches properly graded. The crossing signs are all diamond shape; they are properly located at all highways, are well painted and have 9-inch letters. Warning signals are in place, each way from all overhead obstructions, less than 20½ feet above the track. Cattle guards are of the wooden slat pattern, but are maintained only at very few of the crossings. The mile posts are in good condition. Whistle posts are at the prescribed distance from all highway crossings. The sections are five miles in length and a foreman, five trackmen and a track-walker are employed upon each; each gang is furnished with flags, lanterns and torpedoes. There are 33 highway crossings on the division protected by flagmen and gates, 8 crossings protected by flagmen, and 4 by electric bells. The stations are neat and clean and in good sanitary condition; there is a sign upon each giving its name. Principal stations are furnished with drinking water. Time tables are not posted in waiting rooms. The agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean. At the principal stations are well kept lawns, with flower and ornamental shrubs, presenting an attractive appearance. The station platforms are cement, plank and gravel, and in good condition. Pails of water are maintained as a protection against fire. The agents and helpers wear a uniform and badge indicating their employment. The coaches are in good condition with drinking water in each; they are furnished with the required tools, located in the center of the cars. They are also equipped with automatic couplers and air brakes, are heated by steam and lighted by gas and oil lamps. All trainmen are uniformed.

Ninety per cent. of the freight cars are equipped with automatic couplers, and 50 per cent. with air brakes; all have grab irons on the side and ladders on the ends. Car repairers are protected when at work by a blue flag or lantern.

Since the last inspection (1897) 208,000 cross-ties have been renewed. One-half mile of 80-pound, and 35 miles of 90-pound, rail have been laid, replacing 74-pound rail. Twenty-five thousand lineal feet of drain-tile has been laid in wet cuts. Bridges Nos. 15, 39, 46, 50, 56 and 70 have been rebuilt with masonry. Bridges Nos. 40A, 42, 48, 49, 54D, 56, 56A and 70, also two open culverts, have been extensively repaired. A new creamery has been erected at Hooper, a car repair shop at Corning, new interlocking towers and plants at Binghamton, east of Corning, east of Addison and at Cameron, and extensive repairs have been made to the interlocking plants at Chemung Junction, at the grade crossing of the Pennsylvania Division of the New York Central and Hudson River Railroad, west of Corning, and at east end of Hornellsville yard. Twenty miles of new fence have also been built, 48 miles of ballast have been placed, and 38,000 tie-plates used.

Recommendations.—That the poor ties be renewed promptly; that cattle guards be put in at all highways; that the condition of fences be still further improved; that inside guard rails be maintained on all bridges; and that time tables be posted in all waiting rooms.

Tioga Division.

(Inspected October 11, 1899.)

The portion of the Tioga Division in the State of New York extends from State Line Junction, on the Northern Central Railroad, to the Pennsylvania State line, a distance of 6.51 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties, about one-half oak and balance yellow pine and chestnut, are in very fair condition; they are 7 x 9 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The cuts and embankments are of fair width and slope. The ditching is very good. No subdrainage is in use. Six thousand eight hundred ties have been renewed since last inspection. The rail is somewhat worn, but in very good line and surface. All angle plates are full bolted and no bolts were found loose. Curves have right elevation for the rate of speed maintained. The maximum curve is 7 degrees, near Wells. The maximum grade is 76 feet to the mile, near the State line. The switches are split point and the frogs spring rail. All switches have rigid

stands, with well painted targets. No frogs or guard-rails are blocked. The track is ballasted with gravel and cinders in limited quantity. No railroads are crossed. The track connects with the Northern Central Railroad at State Line Junction and the trains of the Tioga Division run upon that company's track to the junction of the Northern Central Railroad with the Erie main line at Southport. The right of way is mainly fenced with wire and the fences are in medium condition. All trees are cut and removed; some small brush is allowed to remain. Sidings are in fair condition. Derails are in all sidings where grade descends toward main track. Highway crossings are in good condition. The "X" form of crossing sign is used; they are well painted and the letters are nine inches in length. There are no cattleguards in use. Mile posts are in good condition. Whistle posts are at the prescribed distance from all highways. Warning signals are in place where overhead obstructions are less than 20½ feet above the track. The bridges, trestles, open culverts and cattle passes are all in good condition, excepting Nos. 5 and 11, wooden Howe truss bridges, which are on bents pending renewal, all have standard floors which are well maintained. Several open culverts and cattle-passes have been entirely renewed since the last inspection. The length of the section is six miles, and a foreman and two trackmen are employed; they are provided with flags, lanterns and torpedoes. The stations are clean and the sanitary condition good; there is a sign upon each giving its name. Drinking water is furnished. Time tables are not posted. The agents can check baggage to all points to which they sell tickets. The station grounds are fairly well kept. Platforms are of plank and gravel and in good condition. The agents wear a uniform. (The same remarks regarding equipment apply as to the main line division.)

Recommendations.—That all brush on the right of way be cut and removed; that cattleguards be put in at all highway crossings; that inside guard-rails be laid and maintained on all bridge structures; and that a time table be posted in all waiting rooms.

Main Line, Rochester Division.

(Inspected October 10, 1899.)

The main line of the Rochester Division extends from Painted Post to Rochester, a distance of 92.78 miles. The road is single track and standard gauge; 63 miles are laid with 63-pound steel rail, 1 mile with 68-pound steel rail and the balance with 74-pound steel rail. The 63 and 68-pound rail is connected by angle plates, 24 inches in length, with 4 bolts; the 74-pound rail is con-

nected by angle plates, 40 inches in length, with 6 bolts. The ties, mainly oak, are in very fair condition, and are 7 x 8 inches and 8½ feet in length; 16 are laid to a 30 foot rail. The cuts and embankments are of full width and slope. The roadway is well drained; sub-drainage is extensively used. The 63-pound rail is considerably worn; the 68-pound is in somewhat better condition, and the 74-pound in fair condition. The connections are very good; all angle plates are full bolted and the nuts are well tightened. The joints, line and surfacing are good. Curves are well lined and properly elevated for the speed of trains. The maximum curve is about 6 degrees, at Avon. The maximum grade is 46 feet per mile, near South Lima. The switches in main track are all split point. Both rigid and automatic switch stands are used; a large portion of them have high targets; all targets are well painted. All frogs in main track are spring rail. Frogs and guard-rails are not blocked. The track is ballasted with gravel and cinders in fair quantity. The railroads crossed at grade are as follows: Delaware, Lackawanna and Western main line, at Erwins; the crossing is protected by interlocking, with home and distant signals in each direction on both roads and derailing switches in all tracks. Canandaigua Branch, New York Central and Hudson River Railroad, at Rush; the crossing is protected by a tilting board signal; all trains are required to come to a full stop before crossing. The West Shore Railroad at Red Creek; the crossing is protected by gates; all trains are required to come to a full stop before crossing. The right of way is fenced; fences are mainly of wire and in fair condition. All trees, brush and weeds are cut and the right of way is generally clean. The yards and sidings are in good condition. The bridges, trestles, open culverts and cattle-passes are in good condition, excepting four wooden Howe truss bridges which are supported on bents pending renewal of masonry and replacing with iron or steel. The openings under or through embankments are stone arch and box culverts and iron pipe; all in good condition. The highways are properly graded and well planked. The diamond-shaped crossing sign is used, with nine-inch letters; a few are dim and require painting. Warning signals are in place where overhead obstructions are less than 20½ feet above track. The cattle guards are of the wooden slat pattern, and are in good condition. The mile posts are in good condition and whistle posts are at the prescribed distance from each highway crossing. The sections are six miles in length, and a foreman and four trackmen are employed upon each; one of the four trackmen is the regular track-walker. Each section gang is provided with flags, lanterns and torpedoes. The stations are well kept and

the sanitary condition good. A sign is upon each giving its name. All stations are furnished with drinking water. Very few time tables were found posted in waiting rooms. Agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean; at a portion of them are well kept lawns, with flowers, ornamental shrubs and plants. Station platforms are of plank and gravel in good condition. Water in pails is kept as a protection against fire. The agents and helpers are uniformed, and wear a badge indicating their employment. The coaches are all in good condition, with drinking water in each. They are furnished with proper tools located in the center of the cars; all are equipped with automatic couplers and air brakes, are heated by steam and lighted by gas and oil lamps. All trainmen wear uniforms. About ninety per cent. of the freight cars are equipped with automatic couplers and fifty per cent. with air brakes. Grab irons are on the side and ladders on the ends of cars. Car repairers when at work are protected by a blue flag or lantern.

Since last inspection 56,000 new ties have been used in repairs. About twenty-two miles of 63-pound rail has been replaced with second-hand 74-pound rail of fair quality. Ten miles of track have been reballasted; 53,000 lineal feet of drain tile have been laid in wet cuts. Bridges Nos. 2, 10, 14 and 31 have been renewed. Coal trestle at Rochester has been rebuilt; also trestle across raceway at Rochester; and extensive repairs have been made to masonry of bridges and culverts.

Recommendations.—That dim crossing signs be repainted; that inside guard rails be maintained on all bridges, and that a time table be posted in all waiting rooms.

Conesus Lake Branch.

(Inspected October 10, 1899.)

The Conesus Lake Branch connects with main line, Rochester Division, at Conesus Lake Junction, and extends to Conesus Lake, a distance of 1.61 miles. The track is laid with 63-pound steel rail and is in fair condition. There are no bridges or stations on the road. No passenger trains are run upon this branch, excepting in the summer season.

Mount Morris Branch.

(Inspected October 10, 1899.)

The Mount Morris Branch of the Rochester Division extends from Avon to Mount Morris, a distance of 17.70 miles. The road is single track, standard gauge and laid with 63-pound steel rail.

The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties, oak, cedar and chestnut, are 7 x 8 inches and 8 feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of good width and slope. The roadway is well ditched; no sub-drainage in use. The rail is considerably worn and flattened at the joints. The ties are in fair condition. All angle plates are full bolted, but many bolts are loose. No tie plates are in use. The joints, line and surfacing are in medium condition. Curves are fairly well lined and have proper elevation. The maximum curve on the road is 4 degrees. At Mount Morris terminus there is a 22-degree curve connecting with the Dansville and Mount Morris Railroad. The maximum grade is 33 feet per mile. The switches are nearly all stub; a few are split point. Switch stands are mainly rigid; all have well-painted targets. Frogs are nearly all spring rail. No frogs or guard rails are blocked. The track is ballasted with gravel in limited quantity. The main line of the Delaware, Lackawanna and Western Railroad is crossed at grade near Mount Morris. The crossing is protected by interlocking, with home and distant signals in each direction on both roads and derailing switches in all tracks. The fences are in fair condition. Trees, brush and weeds are all removed from the right of way. Yards and sidings are in fair condition. Derailing switches are in all sidings where grade descends toward main track. Highway crossings are in good condition. Crossing signs are diamond-shape, with 9-inch letters; a few require painting. Cattle guards are of the wooden slat pattern and are in fair condition. Whistle posts are at the prescribed distance from all highway crossings. Warning signals are in position where overhead obstructions are less than 20½ feet above the track. The bridges, trestles, open culverts and cattle passes are in fair condition; all have standard floors well maintained. Inside guard rails are only maintained on long bridges. A stone viaduct, consisting of five arches, near Avon, should be repaired and pointed; also filled underneath the ties, which now rest upon wooden stringers. The sections are 9 miles in length, and a foreman and 4 trackmen are employed upon each. One member of each section force walks the track daily and then joins the rest of the gang and works with them. Each gang is provided with flags, lanterns and torpedoes. The stations and sanitary conditions are fair. Platforms are good and station grounds are well kept. (For remarks on equipment see Rochester Division, main line, report.)

Since last inspection about 10,000 ties have been used in repairs. A wooden Howe truss bridge (No. 2), 150 feet span, has been replaced with an iron bridge of excellent design.

Recommendations.—That all loose bolts be made tight; that dim crossing signs be repainted; that inside guard rails be maintained on all bridges, and that a time table be posted in all waiting rooms.

Attica Branch.

(Inspected October 11, 1890.)

The Attica Branch of the Rochester Division extends from Avon to Attica, a distance of 34.55 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rails are connected by angle plates, 24 inches in length, with 4 bolts. The ties, three-fourths oak and one-fourth yellow pine, are in fair condition, and are 7 x 9 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of good width and slope. The roadway is fairly well ditched; no sub-drainage is in use. The rail is considerably worn, especially at the joints. All angle plates are full bolted and very few bolts were found loose. The joints, line and surfacing are very fair. the curves are well lined and properly elevated for the speed of trains. The maximum curve is 9½ degrees at Avon. The maximum grade is 51 feet to the mile, near Attica. The switches are all split point. Nearly all switch stands are rigid; all have well painted targets. Frogs are all spring rail. Frogs and guard rails are not blocked. The track is ballasted with gravel in limited quantity. The following railroads are crossed at grade; Genesee and Wyoming Valley, near Caledonia; the crossing is protected by interlocking signals operated from a tower; there are no derails; trains do not stop when signals are in their favor. The Buffalo, Rochester and Pittsburgh, east of LeRoy; the crossing is protected by ball signals; all trains are required to come to a full stop before crossing. A branch of the New York Central and Hudson River Railroad, west of LeRoy; the crossing is protected by a tilting board signal; all trains are required to come to a full stop before crossing. The New York Central and Hudson River Railroad, main line, at Batavia; the crossing is protected by a tilting board signal and also by semaphore signals on the New York Central and Hudson River tracks; all trains are required to come to a full stop before crossing; New York Central and Hudson River trains do not stop when signals are in their favor. Two freight sidings of the New York Central and Hudson River Railroad are also crossed at Batavia; when using either of the tracks the New York Central and Hudson River trains are protected by flagging. A branch of the New York Central and Hudson River Railroad is crossed west of Batavia; the crossing is protected by a tilting board signal; all trains are

required to come to a full stop before crossing. The fences are mainly of wire and in fair condition. No trees or brush remain upon the right of way. The yards and sidings are in very fair condition. Derailing switches are in sidings where grade descends toward the main track. The iron bridges are in good condition. Wooden trestles are in fair condition; all have standard floors. Only the long trestles have inside guard rails. Very many open culverts and cattle-passes have no masonry, and pile or frame bents, planked behind to support the embankments, are used to support the ends of the stringers or I-beams; all are in thoroughly safe condition, but require watchfulness and renewal frequently. Openings under or through embankments are stone arch and box culverts and iron drain pipe; all in good condition. The highway crossings are well planked. The crossing signs are diamond shaped and are well painted; a few have 7-inch letters instead of 9-inch, but all such are to be changed when repainted and letters made legal size. The cattle guards are of the wooden slat pattern; some are missing. The mile posts are in good condition. Whistle posts are at the prescribed distance from all highway crossings. The sections are seven miles in length, and a foreman, four trackmen and a track-walker are employed upon each; each gang is provided with flags, lanterns and torpedoes. The stations and sanitary condition are very fair. Platforms are good and station grounds are well kept. (For remarks on equipment, etc., see Rochester Division, main line, report.)

Since last inspection (1897) about 20,000 cross-ties have been used in repairs. Several open culverts and cattle-passes have been rebuilt and extensive repairs made to others.

Recommendations.—That the missing cattle guards be replaced; that the pile or frame bents used for abutments be replaced with masonry whenever renewal becomes necessary; that inside guard rails be maintained on all bridges; and that a timetable be posted in all waiting rooms.

Main Line—Buffalo Division.

(Inspected October 11 and 12, 1899).

The Buffalo Division, main line, of the Erie Railroad extends from Hornellsville to Buffalo, a distance of 92.24 miles. The road is double track, standard gauge, and laid with 63, 74 and 80-pound steel rail; $3\frac{1}{2}$ miles 63-pound, 11 miles 74-pound and balance 80-pound. The 63-pound rail is connected by 24-inch angle plates, with 4 bolts; the 74-pound by 40-inch angle plates, with 6 bolts; and the 80-pound by 30-inch angle plates, with 6

bolts. The ties (all oak), are 7 x 9 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts are taken out to full width and proper slope. The embankments are full width and slope. The roadway is well ditched. Wet cuts are sub-drained with tile and the results are very satisfactory. The ties are in very good condition; they are evenly spaced and full spiked. Tie plates are extensively used with good results. The 63-pound rail is much worn; the 74-pound rail also shows wear; the 80-pound rail is in good condition. All angle plates are in good condition; they are full bolted, and no loose bolts were discovered. The joints, line and surfacing are good. The curves are well lined and correctly elevated for the speed of trains. The maximum curve is 7 degrees, at Portage. The maximum grade is 50 feet per mile, east of Attica. The switches are all split point, and the frogs, excepting a few in the large yards, are spring rail. All switches have stands, with well painted targets. Nearly all the switch stands are rigid, and those at facing switches have high targets and are generally interlocked. Frogs and guard rails are not blocked. The track is well ballasted with gravel. Across Portage bridge the tracks are gauntleted and trains are governed by interlocking signals. All trains are required to come to a full stop before entering upon this track, and not proceed until signals are in their favor. At East Buffalo, a stock yard track crosses at grade; the crossing is protected by a tilting board signal. Main line trains do not stop when signal is in their favor. The Western New York and Pennsylvania Railway, the Buffalo Creek Railroad and another track of the Western New York and Pennsylvania Railway are also crossed at grade at East Buffalo. The crossings are about one hundred feet apart, in the order named, and are all protected by signals located in a tower which is situated about midway between the crossings. Erie trains do not stop when signals are in their favor. Two tracks of the Lake Shore and Michigan Southern Railway are also crossed at grade in Buffalo; the crossing is protected by a tilting board signal. Trains do not stop when signal is in their favor. The main line (four tracks) of the New York Central and Hudson River Railroad is crossed at grade near Buffalo station; the crossing is protected by a tilting board signal. Trains do not stop when signal is in their favor. Block signals are in use on the entire main line of the Division. The right of way is well fenced. All trees, brush and weeds are removed and the right of way is generally clean. The condition of yards and sidings is good, and no rubbish or refuse materials are allowed to accumulate. Derailing switches are in all sidings where the grade descends toward main track. The bridges, open culverts and cattle-passes are all in good condition. All have

iron or steel superstructure on good masonry. A few iron bridges should be repainted. All bridge structures have good and sufficient floors with guard timbers notched on the ties and securely bolted to them. Inside guard rails are only maintained on the long bridges. The openings under or through the embankments are stone arch and box culverts and iron pipe and are all in good condition. The highway crossings are well planked and the approaches properly graded. The crossing signs are diamond shaped; are in good condition and newly painted. Warning signals are in place where overhead obstructions are less than $20\frac{1}{2}$ feet above the track. The cattle-guards are of the wooden slat pattern. At about half the highways there are no cattle-guards. The mile posts are in good condition. Whistle posts are at the prescribed distance from all highway crossings. The sections are five miles in length, and a foreman, four trackmen and a track-walker are employed upon each; all section gangs are furnished with flags, lanterns and torpedoes. There are 10 highway crossings protected by flagmen and gates, 10 protected by flagmen and 9 protected by electric bells. The stations are neat and clean and the sanitary condition good; there is a sign upon each giving its name. Principal stations are furnished with drinking water and water in pails is maintained for fire protection. Time tables are not generally posted in waiting rooms. The agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean. At many stations are well kept lawns, with flowers, ornamental shrubs and plants, presenting an attractive appearance. The station platforms are cement, plank and cinder and are in good condition. The agents and helpers wear a uniform and badge indicating their employment. The coaches are in good condition, with drinking water in each. They are furnished with the required tools, located in the center of the cars. They are equipped with automatic couplers and air brakes, are heated by steam and lighted by gas and oil lamps. All trainmen are uniformed. About 90 per cent. of the freight equipment has automatic couplers and 50 per cent. has air brakes. The remaining freight cars are being fitted with automatic couplers and air brakes as rapidly as possible. Grab irons are on the sides and ladders on the ends of the cars. Car repairers when at work are protected by a blue flag or lantern.

Since the last inspection (1897) 95,000 cross-ties have been renewed, $40\frac{1}{2}$ miles of track have been reballasted, a large amount of drain tile has been laid in wet cuts, and considerable repairs and renewals have been made to bridge and culvert masonry and also to bridge superstructure:

Recommendations.—That the grade crossings of other railroads in the city of Buffalo be furnished better protection; that missing cattle-guards be replaced; that inside guard rails be maintained on all bridges; and that a timetable be posted in all waiting rooms.

Niagara Falls Branch.

(Inspected October 12, 1899.)

The Niagara Falls Branch of the Buffalo Division extends from East Buffalo to Suspension Bridge, a distance of 24.01 miles, and also includes the Erie International tracks from Main street, Buffalo, to International Bridge, 4.50 miles, and the Black Rock Branch, from Black Rock Junction to Black Rock, 1.14 miles, making total length 29.65 miles. The road is standard gauge; 5.10 miles of the main line and the Erie International Branch are double track; the balance of the road is single. Eight miles are laid with 80-pound steel rail and the balance with 63-pound steel rail. The 80-pound rail is connected by angle plates, 30 inches in length, with 6 bolts, and the 63-pound by angle plates, 24 inches in length, with 4 bolts. The ties, (almost entirely oak,) are in good condition, and are 7 x 9 inches and 8½ feet in length in main line track, and 7 x 9 inches and 8 feet in length in the branch tracks; 16 ties are laid to a 30-foot rail. The cuts and embankments are of full width and slope. The roadway is well ditched; no subdrains have been laid. The 63-pound rail is considerably worn; the 80-pound is new and in excellent condition. Tie plates are used with the 80-pound rail. The connections are good. All angle plates are full bolted and all bolts are tight. The joints, line and surfacing are fair. The curves are well lined and the elevation of the outer rail is correct. The maximum curve is 6 degrees, at Niagara Falls Junction. The maximum grade is 52 feet per mile, at East Buffalo. The switches are all split point and the frogs spring rail. Both rigid and automatic switch stands are used; all have well painted targets. Frogs and guard-rails are not blocked. The track is well ballasted with slag and gravel. The following railroads are crossed at grade: The Canandaigua Branch of the New York Central and Hudson River Railroad and also a lumber switch near Tonawanda; the crossings are protected by interlocking with derails in all tracks. The Lockport Branch of the New York Central and Hudson River at Tonawanda; the crossing is protected by interlocking, with derails in all tracks. The Niagara Falls Branch (two tracks) and also the Lewiston Branch of the New York Central and Hudson River at Suspension Bridge; the crossing is protected by a tilting board signal; Erie trains stop; New York Central and Hudson

River trains do not stop when signal is in their favor. The International Branch crosses two double track lines of the New York Central and Hudson River Railroad north of Buffalo; each crossing is protected by a tilting board signal; Erie trains stop, but New York Central and Hudson River trains do not stop when signal is in their favor. (The International Branch is only used by freight trains). The right of way is fenced where necessary and the fences are in fair condition. The trees, brush and weeds are cut and removed and the right of way is clean. The yards and sidings are in good condition and free from rubbish and refuse materials. Derails are in all sidings where the grade descends toward the main track. The bridges, trestles, open culverts and cattle-passes are all in good condition, excepting two, which are on bents, pending renewal; they all have standard floors, well maintained. Inside guard-rails are only maintained on long bridges. The masonry is in good condition. The openings under or through the embankments are stone culverts and iron pipe, and are all in good condition. The highway crossings are well planked and properly graded. The diamond-shaped crossing sign is used at all highway crossings; they are in good condition and well painted. Warning signals are in place where overhead obstructions are less than 20½ feet above the track. No cattle guards are in use. Mile posts are maintained, and whistle posts are at the prescribed distance from all highway crossings. The sections are five miles in length, and a foreman, four trackmen and a track-walker are employed upon each; they are furnished with flags, lanterns and torpedoes. Two highway crossings are protected by flagmen and gates, twenty by flagmen and four by electric bells. The stations are good, and the remarks on stations contained in the report on main line apply. (For equipment, etc., see report on main line.)

Recommendations.—That cattle guards be put in at the boundaries of all highways crossed; that inside guard rails be maintained on all bridges; that better protection be furnished at the grade crossings of the New York Central and Hudson River Railroad, at Suspension Bridge, and also at the two crossings of same railroad on the International Branch; and that a time table be posted in all waiting rooms.

Buffalo and Southwestern Branch.

(Inspected October 13, 1899.)

The Buffalo and Southwestern Branch of the Buffalo Division extends from Buffalo Creek Railroad Junction to Jamestown, a distance of 66.30 miles, of which distance 10.60 miles, from

Waterboro to Jamestown, are also used as a west-bound track by the Meadville Division and operated as a part of that Division. The road is single track and standard gauge; 55.70 miles are laid with 63-pound steel rail and 10.60 miles with 68½-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties, (ninety per cent. oak and the balance cedar and yellow pine,) are 6 x 9 inches and 8 feet in length and 7 x 9 inches and 8½ feet in length, and 16 are laid to a 30 foot rail. The cuts and embankments are of good width and proper slope. The roadway is thoroughly ditched. Wet cuts are sub-drained with tile. The ties are in very good condition, although some renewals are needed. The rails are all in very fair condition. The connections are good; all angle plates are full bolted and no loose bolts were discovered. The joints, line and surfacing are in excellent condition. The curves are exceptionally well lined and are properly elevated for the speed of trains. The maximum curve is 4 degrees, near Dayton, and the maximum grade 132 feet per mile, also in vicinity of Dayton. The switches are all split point and the frogs spring rail. Both rigid and automatic switch stands are used; all have well painted targets. No frogs or guard-rails are blocked. The track is ballasted with gravel, cinders and slag in fair quantity. The following railroads are crossed at grade: The New York, Chicago and St. Louis, and the Western New York and Pennsylvania, side by side, at Blasdel; the crossing is protected by a tilting board signal; all trains stop before crossing. The Dunkirk, Allegheny Valley and Pittsburg, at Falconer Junction; the crossing is protected by interlocking with derails in all tracks. The fences are only fairly well maintained. All trees, brush and weeds are cut and removed and the right of way is generally clean. The yards and sidings are in good condition and no refuse material or rubbish is allowed to accumulate. Derailing switches are in all sidings where the grade descends toward the main track. The bridges, trestles, open culverts and cattle-passes are all in fair condition; very many are wooden structures and on timber or pile bents instead of masonry; all such are well maintained and of sufficient strength. Some foundations of open culverts and cattle-passes have settled or track has been raised and small blocking has been put under the stringers from time to time until too much is in use and thicker wall plates or longer bents should be used instead. A portion of the wooden bridges have been replaced with iron and several others are now being replaced. All bridge structures have standard floors, well maintained. Inside guard-rails are only maintained on long bridges. The openings under or through the embankments are stone arch and box culverts and iron pipe; all in good condition. The high-

way crossings are well planked and properly graded. The diamond-shaped crossing sign is in place at all highway crossings; many of them are dim, and should be repainted. Warning signals are in place where overhead obstructions are less than 20½ feet above the track. The cattle guards are of the wooden slat pattern and are at all highways. Mile posts are maintained and whistle posts are at the prescribed distance from all highway crossings. The sections are six miles in length, and a foreman, three trackmen and a track-walker are employed upon each; they are furnished with flags, lanterns and torpedoes. The stations are in very good condition and the remarks on main line stations apply. (For equipment, etc., see report on main line, Buffalo Division.)

Since the last inspection about 35,000 cross-ties have been renewed. Several bridges have been rebuilt and others are now being rebuilt. Three wooden Howe truss bridges have been filled and the streams diverted. Near Conewango, a 96-foot span (now wooden Howe truss) is being reduced to a 17-foot span. New masonry is being constructed at this place, and when completed a deck plate girder is to be used and the balance of the opening filled. At 16 open culverts iron pipe has been put in and the openings filled. A new station has been erected at Eden Center.

Recommendations.—That the small blocking be removed from underneath the stringers of trestles, open culverts and cattle-passes, and thicker wall plates or longer bents substituted; that the fences be put in proper repair; that the dim crossing signs be repainted; that inside guard rails be maintained on all bridges; and that a time-table be posted in all waiting rooms.

Allegheny Division.

(Inspected October 14 and 20, 1899.)

The Allegheny Division of the Erie Railroad extends from Hornellsville to Dunkirk, a distance of 130.36 miles. The road is single track, excepting that portion from Carrollton to Salamanca, nine miles, and in Hornellsville yard where a second track is in use. The track is standard gauge. About fifty miles are laid with 63-pound steel rail, twenty-four miles with 74-pound steel rail, and the balance with 80-pound steel rail. The 63-pound rail is connected by angle plates, 24 inches in length, with 4 bolts; the 74-pound rail by angle plates, 40 inches in length, with 6 bolts; and the 80-pound rail by angle plates, 30 inches in length, with 6 bolts. The ties used between Hornellsville and Dayton (106 miles) are 7 x 9 inches and 8½ feet in length (almost entirely oak).

The ties used between Dayton and Dunkirk are 6 x 9 inches and 8 feet in length (principally oak—a few cedar). Sixteen ties are laid to a 30-foot rail. The cuts are full width and slope, excepting two large rock cuts near the west end of the Division, which are too narrow to admit of sufficient ditching to properly drain the roadbed. The embankments are of full width and slope. The roadway is generally well ditched. Wet cuts are sub-drained with tile, with excellent results. The ties are in very good condition; they are evenly spaced and full spiked. Tie plates are used on bridges and curves and give good satisfaction. The 63-pound rail is considerably worn; the 74 is in fair condition; and the 80-pound in good condition. The connections are well made; all angle plates are full bolted and no loose bolts were discovered. The joints, line and surfacing are given careful attention. The curves are well lined and correctly elevated for speed of trains. The maximum curve is 6 degrees, near Cattaraugus. The maximum curve east of Salamanca is 4 degrees, near Cuba. The maximum grade is 41 feet per mile, west of Salamanca. The switches are all split point and the frogs spring rail. All switches have stands, with well-painted targets. Nearly all the stands are rigid. High targets are used at facing switches. Frogs and guard rails are not blocked. The track is very well ballasted with gravel and cinders. The following railroads are crossed at grade: The Western New York and Pennsylvania (two tracks), at Olean; the crossing is protected by interlocking signals, and the Erie switches near the crossing are also interlocked with the signals. Switches on the Western New York and Pennsylvania located close to the crossing are not interlocked. Only home signals are used and there are no derails in any tracks. All trains are required to come to a full stop before crossing. The Western New York and Pennsylvania Railway and the New York, Chicago and St. Louis Railroad cross side by side near Dunkirk; the crossing is protected by a tilting board signal. All trains are required to come to a full stop before crossing. The right of way is fenced and the fences are in fair condition. All trees, brush and weeds are cut and removed, and the right of way is generally clean. The yards and sidings are in good condition and free from rubbish and refuse material. Derailing switches are in all sidings where grade descends toward main track. The bridges, open culverts and cattle-passes are all in good condition. The masonry is generally good, and repairs and renewals are being made where necessary; a few timber and plank abutments yet remain. All bridges are of iron or steel and have good and sufficient floors well maintained. Inside guard rails are only maintained on long bridges. The openings under or through embankments are stone arch and box culverts and iron pipe; all in good condition. The highway crossings are well planked and

the approaches are properly graded. Both diamond and X shaped crossing signs are used; they are in good condition and well painted; some have 7-inch letters which are to be made legal size when repainted. Warning signals are in place where overhead obstructions are less than $20\frac{1}{2}$ feet above the track. The cattle guards are of the wooden slat pattern and are lacking at most highways. The mile posts are in good condition. Whistle posts are at the prescribed distance from all highway crossings. The sections are $6\frac{1}{2}$ miles in length, and a foreman, three trackmen and a track-walker are employed upon each; they are furnished with flags, lanterns and torpedoes. There are ten highway crossings protected by flagmen and gates, and four protected by flagmen. The stations are neat and clean and the sanitary condition good; there is a sign upon each giving its name. Most stations are furnished with drinking water, and water in pails is kept for fire protection. Time tables were found posted in very few waiting rooms. The agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean. At some stations are well-kept lawns, with flowers, ornamental shrubs and plants, presenting an attractive appearance. The station platforms are plank, cement and cinders and are well maintained. The agents and helpers are uniformed and wear a badge indicating their employment. The coaches are in good condition with drinking water in each; they are furnished with the required tools, located in the center of the cars; they are also equipped with automatic couplers and air brakes, are heated by steam and lighted by gas and oil lamps. All trainmen are uniformed. About 90 per cent. of the freight equipment has automatic couplers and 50 per cent. has air brakes. The remaining freight cars are being fitted with automatic couplers and air brakes as rapidly as possible. Grab irons are on the sides and ladders are on the ends of the cars. Car repairers when at work are protected by a blue flag or lantern.

Since last inspection (1897) about 76,000 cross-ties have been renewed. Seventy-three thousand tie plates have been used. Eight and three-fourths miles second-hand 74-pound steel rail, in fair condition, put in main track, replacing worn 63-pound rail. Thirty thousand lineal feet of drain tile has been laid in wet cuts. Thirty-eight miles of track has been rebalasted. Bridges Nos. $4\frac{1}{2}$, 9, 10, 17, 18, $18\frac{1}{2}$, 33, 36, 38, $38\frac{1}{2}$ and 39, also six open culverts, have been renewed with iron or steel (nearly all were formerly wooden structures). New masonry has been constructed at bridges Nos. 9, 10, 17, 18, 33, 36, $38\frac{1}{2}$ and 39, also at four open culverts; and the masonry at Nos. $4\frac{1}{2}$, $18\frac{1}{2}$ and 38, also three open culverts, extensively repaired. Five open culverts have been replaced with iron pipe and the openings filled. Seven and

one-half miles of new fence have been built. Two very dangerous grade crossings between Tip Top and Andover have been eliminated by purchasing land and diverting the highway. The maximum east-bound grade, between Salamanca and Hornellsville, has been decreased from 39 feet per mile to 26 feet per mile by cutting down the top of the grades east of Wellsville, east of Scio, east of Hinsdale and east of Olean, and raising the embankments at the foot of those grades, the maximum depth of cutting being about 7 feet and maximum raise about 8 feet. The stations at Hornellsville and Dayton have been repaired and that at Olean repainted. New "granite" roofs have been put on the following buildings: Creamery at Hornellsville, stations at Forestville, Salamanca and Dunkirk, the freight house at Salamanca and Dunkirk, and the engine-house at Olean.

Recommendations.—That missing cattle guards be replaced; that inside guards be maintained on all bridges; and that a time table be posted in all waiting rooms.

Bradford Division.

(Inspected October 14, 1899.)

The portion of the Bradford Division in the State of New York extends from the Pennsylvania State line to Carrollton, a distance of 7.98 miles. The road is single track, standard gauge, and laid with 63-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties, oak, chestnut and yellow pine, are 7 x 8 and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of good width and proper slope. The ditches are in very good condition. No sub-drainage is used. The ties are in very fair condition. The rail is considerably worn. The connections are good. All angle plates are full bolted and very few bolts are loose. The joints, line and surfacing are very good. Curves are well lined and correctly elevated for the speed of trains. The maximum curve is 3 degrees and the maximum grade 30 feet per mile. The switches are all split point; all have rigid stands with well-painted targets. Both spring rail and rigid frogs are used. Frogs and guard rails are not blocked. The track is fairly well ballasted with cinders and gravel. The Western New York and Pennsylvania Railway is crossed at grade. The crossing is protected by a tilting board signal. All trains stop before crossing. A branch track to a tannery, operated by the Buffalo, Rochester and Pittsburgh Railway Company, crosses the Bradford Division at grade. The crossing is protected by a tilting board signal. All switching trains stop before crossing. The fences are only

in medium condition. All trees, brush and weeds are cut and the right of way is fairly clear. The yard and siding tracks are in very fair condition. No sidings require derailing switches. The bridges, trestles, open culverts and cattle passes are all in fair condition. The only iron bridge in this State is in first-class condition. There are a large number of timber and pile trestles, generally in good repair; a few of them require small repairs, which are arranged for. The open culverts have wooden stringers in good condition and of sufficient strength. Many of them have no masonry and timber or pile bents, planked to support the embankments, are used to support the stringers. All bridge structures have standard floors, well maintained; inside guard rails are not maintained. The openings under or through the embankments are stone culverts and iron pipe; all in good condition. The highway crossings are properly graded and well planked. The "X" form of crossing sign is in place at all highway crossings. They are in good condition, well painted and letters are of legal size. No cattle guards are in use. Mile posts are maintained and whistle posts are at the prescribed distance from all highways crossed. A foreman and 5 trackmen are employed. They are furnished with flags, lanterns and torpedoes. No regular track-walker is employed. There is but one station in this State (at Limestone); it is a small building, not in good repair. (For equipment, etc., see report on Allegheny Division.)

Since last inspection (1897) 4,300 cross-ties have been renewed. Almost six miles of ballast has been placed. Some masonry has been rebuilt. Several trestles and open culverts have been entirely renewed. An iron pipe has been put in and a trestle 80 feet in length, near Limestone, has been filled.

Recommendations.—That the fences be put in proper repair; that cattle guards be put in and maintained at each boundary of all highways crossed, and inside guard rails maintained upon all bridges.

Meadville Division.

(Inspected October 21, 1899.)

The portion of the Meadville Division in the State of New York extends from Salamanca, on the line of the Allegheny Division, to the Pennsylvania State line, a distance of 49.24 miles. The road is single track, except that portion between Waterboro and Jamestown (10.60 miles) where the Buffalo and Southwestern Branch track is used as a second track. The track is standard gauge and laid with steel rail. Two and one-half miles are laid with 90-pound rail, 12½ miles with 80-pound and the balance

with 68½-pound. The 90 and also the 80 pound rail is connected by angle plates, 30 inches in length, with 6 bolts, and the 68½-pound rail by angle plates, 24 inches in length, with 4 bolts. The ties (oak) are 7 x 8 inches and 8½ feet in length; 16 are laid to a 30-foot rail. The cuts and embankments are of good width and proper slope. The roadway is exceptionally well ditched. Tile sub-drains are extensively used in wet cuts, and the results are very beneficial. The ties are in good condition and all necessary renewals for the season have been made. The 90 and the 80 pound rail is in first-class condition, and the 68½-pound rail in fair condition. The connections are well made. All angle plates are full bolted and no loose bolts were discovered. The joints, line and surfacing are in excellent condition. The curves are well lined and correctly elevated for the speed of trains. The maximum curves are 3 degrees and the maximum grade 53 feet per mile. The switches are all split point and the frogs spring rail. All switches have rigid stands with well-painted targets. High targets are almost entirely used, and all obscure or outlying switches are interlocked with distant signals. All frogs and guard rails have wedge-shaped blocks fitted in the openings so as to effectually prevent a person getting foot caught. The track is very well ballasted with gravel.

The following railroads are crossed at grade: The Dunkirk, Allegheny Valley and Pittsburg, at Falconer Junction; the crossing is protected by interlocking switches and signals, with derails in all tracks. The Jamestown and Chautauqua, at Jamestown; the crossing is protected by interlocking switches and signals, with derails in all tracks. The fences are mainly of wire and are in very fair condition. No trees, brush or weeds remain upon the right of way. The yards and sidings are well maintained and are neat and clean. Derailing switches are in all sidings where the grade descends toward main track. The bridges, open culverts and cattle passes are well maintained and the masonry is generally good. All bridge structures have standard floors, with guard timbers notched on the ties and securely bolted to them. Inside guard rails are only maintained on long bridges. The openings under or through embankments are stone arch and box culverts and iron pipe, and are all in good condition. The highway crossings are properly graded and well planked. Both diamond and "X" shaped crossing signs are in use. A sign, properly located, is at each highway crossing; a few of them are dim and should be repainted. Warning signals are in place where overhead obstructions are less than 20½ feet above the track. The cattle guards are of the wooden slat pattern and are in place at each boundary of all highways crossed. The mile posts are stone and are all in place. Whis-

the posts are at the prescribed distance from all highway crossings. The sections are 6 miles in length and a foreman, 5 trackmen and a track-walker are employed upon each. Each gang is furnished with flags, lanterns and torpedoes. Six highway crossings are protected by flagmen and gates, two by flagmen and three by electric bells. The stations are well kept and the sanitary condition is good; a sign is upon each giving its name. All stations are furnished with drinking water and a time table is posted in each waiting room. The agents can check baggage to all points to which they sell tickets. Water in pails is kept as protection against fire. The station grounds are neat and clean. At the principal towns well kept lawns, with flowers, ornamental shrubs and plants are maintained about the station and present an attractive appearance. The station platforms are of cement, gravel and plank and are well maintained. Agents and helpers are not uniformed, but wear a cap and badge indicating their employment. The coaches are in good condition, with drinking water in each, and are furnished with the required tools located in the center of the cars. They are also equipped with automatic couplers and air brakes, are heated by steam and lighted by gas and oil lamps. All trainmen are uniformed. About ninety per cent. of the freight cars are equipped with automatic couplers and fifty per cent. with air brakes. The balance of the freight cars are being equipped with automatic couplers and air brakes as rapidly as possible. Grab irons are on the sides and ladders on the ends of cars. Car repairers when at work are protected by a blue flag or lantern.

Since the last inspection (1897) 34,000 cross-ties have been used in repairs. Two and one-half miles of new 90-pound rail have been laid, replacing 68½-pound rail; extensive additions have also been made to sidings and passing tracks. Twelve miles of track have been reballasted and a large and convenient passenger station of brick has been erected at Jamestown.

Recommendations.—That the dim crossing signs be repainted.

General Remarks.

The Erie property gives evidence of marked improvement in all branches of maintenance, and shows good and intelligent management. Almost all bridges in the main line and a large portion of those in branches are iron or steel, and new iron or steel bridges are fast replacing the remaining wooden structures and the older iron bridges not intended for the rapidly increasing weight of rolling stock. The extensive sub-draining of wet cuts has resulted in securing a good firm roadbed where formerly the ground was soft and spongy during wet seasons. The extensive use of tie

plates serves to prevent the cutting of the rail into the ties and also holds the rail in line and prevents its canting outward. The older interlocking plants are being improved and added to, and the later ones are of the most modern design and workmanship the best. Block signals are in use on all the important lines, and many other safeguards are employed to regulate traffic and prevent accidents, such as: Semaphore signals at station under the control of the train dispatchers; high targets at facing switches, many of them interlocked with distant signals or operated from the signal or block towers; derailing switches in all sidings where grade descends toward main track to prevent cars on which the brake may have become loosened from running on or fouling the main track; spare rails for emergency use, usually kept on posts for that purpose, are available on each mile of the road, and other track appliances at convenient places. While your inspector finds much to commend, he considers that more care should be given to the proper maintenance of the fences and cattle guards, and strongly recommends the use of inside guard rails on all bridges to conduct a possibly derailed truck across the structure on the ties and prevent its running off the side or into the bridge truss, either of which would be likely to result in serious accident. It is also recommended that a time-table be posted in all waiting rooms for the information of the traveling public.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with.

ERIE AND CENTRAL NEW YORK RAILROAD.

(Inspected June 17, 1899.)

The Erie and Central New York Railroad extends from Cortland junction with the Lehigh Valley Railroad to Cincinnatus, a distance of 16.44 miles.

The road is single track, standard gauge and laid with 60-pound steel rail. The rail is connected by angle plates, 24 inches in length, with 4 bolts. The ties are about 40 per cent. cedar, 40 per cent. hemlock and 20 per cent. chestnut; they are 6 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot rail. Many of the cuts are narrow and slopes steep. Sides of some of the cuts are sliding, filling the ditches and allowing water to remain upon the roadbed, rendering it very difficult to maintain good line or surface to track. Embankments are also narrow in places, slopes steep. Very little ditching has been done and the few ditches made are rapidly being filled by materials washing in from the

slopes. No sub-draining has been done. The ties are all sound, are evenly spaced and full spiked. The rail is in excellent condition. All joints are full bolted; some nuts are loose and should be tightened. The joints, line and surfacing are generally good; in some wet cuts track is out of line and surface; in those places cuts must be widened and ditches made before condition of track can be materially improved. The switches are all point and in good condition. Switch-stands are rigid; they have targets and are well painted. Rigid frogs are used. Frogs and guard rails are not blocked. The sidings and yards are in fair condition. The track is ballasted with a very small quantity of gravel and stone. The right of way is well fenced. Fences are wire. Trees, brush and weeds are cut and, when not removed, are piled for burning. Yards are clean and no rubbish lying about.

Bridges, trestles and open culverts are in good condition. They are all wooden structures. Some streams of considerable size are crossed on pile trestles constructed entirely of hemlock timber; they are of good design and have sufficient material, properly distributed, to carry the trains with safety; they will, however, require careful watching during freshets, especially in spring when ice is running. There are several trestles from 200 to 800 feet in length and from 20 to 40 feet in height, across valleys. They have framed bents of 12 x 12 inch timber, properly constructed and well braced. The bents are on mud sills and are about 12½ feet from center to center. The stringers are two pieces 8 x 16 under each rail; ties 6 x 8 inches and 8 feet in length, spaced 2 feet center to center; guard timbers 6 x 8, notched, and bolted every third or fourth tie; all hemlock excepting the ties, which are cedar and chestnut. There is no protection against fire provided. Open culverts and cattle passes are generally constructed with pile or frame bents planked behind, instead of masonry abutments, to support the embankments. They are all right now, but will require careful watching when the timber begins to decay. All this class of structures have stringers and floors same as those on trestles and are all sound. There are no cattle guards.

The stations are new and are neat and tasty in appearance. They are clean and well kept. There is a sign on each, giving its name. Time table of the road is posted. The company has no telegraph line. Uses telephone instead. Station grounds are neat and clean. Station platforms are plank and are in good condition. Station men are not uniformed.

There is a good iron turntable at each end of the road. The passenger cars are in good condition, with drinking water in each. They have automatic couplers and air brakes. Tools are provided and located in center of cars. They are heated by

stoves and lighted with oil lamps. Trainmen are all uniformed. The sections are 9 miles in length, and a foreman and 7 men are employed on each. The highway crossings are properly graded and well planked. The X form of crossing sign, with 6-inch letters, is used.

Recommendations.—That narrow cuts and embankments be widened; that good and sufficient ditches be made in all cuts and wet places; that all loose nuts on track bolts be screwed up tight and kept so; that barrels of water be kept upon trestles as protection against fire; that crossing signs be made with legal sized letters.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company notified the Board that: "The recommendations of the inspector will be carried out as rapidly as our facilities will allow, the work now being under way."

FALL BROOK (Pennsylvania Division N. Y. C. and H. R. R. R.).

(Inspected July 25, 1899.)

The Fall Brook Railway, operated by the New York Central and Hudson River Railroad Company, extends, the Fall Brook Division, from the Pennsylvania State line, at Lawrenceville, to Corning, a distance of 15 miles; the Syracuse, Geneva and Corning Division, from Corning to Geneva, a distance of 57.75 miles; and the Penn Yan Branch, from connection with Syracuse, Geneva and Corning Division, at Dresden, to Keuka Lake, a distance of 7.07 miles; making a total mileage of 79.82 miles.

The road is single track and standard gauge. The main line is laid with 75 and 76 pound steel rail and the Penn Yan Branch with 62½ pound rail. The 75-pound rail is connected by angle plates 40 inches in length, with 6 bolts, and the 76-pound rail mainly by angle plates 40 inches in length, with 6 bolts, while a small portion of the 76 pound-rail is connected by angle plates 24 inches in length, with 4 bolts. The 62½-pound rails are connected by angle plates 24 inches in length, with 4 bolts. The ties in main track are almost entirely oak, 6½ x 9 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The ties used in sidings and yards are oak and cedar, of same dimensions as ties in main track. The cuts and embankments are all full width and proper slopes. The roadway is well ditched. No sub-drainage is used. The ties are in good condition and not more than 5 per cent. of those now in track will require renewal this season. They are evenly spaced and full spiked. The 75-pound rail is in good condition and a considerable portion of it is prac-

tically new. The 76-pound rail is considerably worn, especially at the joints. The 62½-pound rail on the Penn Yan branch is much worn. All angle plates are full bolted and nuts screwed up tight. The joints, line and surfacing are good, excepting where the worn rail causes flat spot at joints. The curves are well lined and appear to have proper elevation. The maximum curve on main line is 8½ degrees, located near Lawrenceville. The maximum curve on Penn Yan Branch is 20 degrees, near Keuka Mills. This branch was built upon the location of an abandoned canal and has a large per cent. of curvature, with many very sharp curves. The maximum grade on main line is 76 feet to the mile, located near Himrods. The maximum grade on Penn Yan Branch is 118 feet to the mile, located near Seneca Mills. The switches in main track are all split point; those in yards and sidings are split point and part rigid. The main line frogs are all spring rail. Rigid frogs are used in yards and sidings. Main line switch stands are automatic; they all have targets and targets are well painted. The frogs and guard rails are not blocked. The track is ballasted with gravel and cinder in fair quantity. No shims were found in use.

The Erie Railroad is crossed at grade in Corning yard; the crossing is protected by interlocking signals, with derailing switches. The Delaware, Lackawanna and Western Railroad crosses overhead near Corning. The Northern Central Railroad crosses underneath near Himrods, and also crosses the Penn Yan Branch overhead at Penn Yan. Connection is made with the Erie Railroad at Corning, with the Delaware, Lackawanna and Western near Corning and with the Northern Central at Himrods.

The right of way is fenced and the fences are in good condition. All trees, brush and weeds are cut, and the right of way is generally clean and free from rubbish.

The condition of yards and sidings is good.

The highway crossings are well planked and the approaches are properly graded. The diamond-shaped crossing sign is used almost entirely. A few are of triangular form. They are well painted and have 8-inch letters instead of 9-inch, as the law requires. All crossings have signs, and they are properly located.

All highway crossings on main line have cattle guards of the wooden slat pattern. No cattle guards are used on the Penn Yan Branch.

Warning signals are in place where overhead obstructions are less than 20 feet above the track.

Mile posts and whistle posts are in first-class condition and properly located.

Bridge masonry is generally good. The foundation of bridge No. 21, at south end, should receive attention. It has evidently settled, permitting pedestal stone to become loose. Bridge structures are almost entirely of iron. A few of the viaducts are evidently rather light, and arrangements are being made to replace such with heavier structures. The bridge floors are of good design and are well maintained. They all have guard timbers properly notched and bolted, and on the larger structures inside guard rails are also used.

The sections are 5 miles in length, and a foreman and 5 trackmen are employed upon each. Each gang is provided with lanterns, flags and torpedoes. No regular track-walker is employed, but a member of each gang walks over the section daily.

The stations are clean and sanitary conditions good. There is a sign upon each giving its name. The principal stations are furnished with drinking water and a time table of the road is posted. Agents can furnish checks to all points to which they sell tickets. Station grounds are neat and clean. Station platforms are of plank and in good condition. The station employees are not uniformed.

The coaches are in good condition, with drinking water in each. They are furnished with tools located in center of the cars. They have automatic couplers and air brakes, are heated by steam and lighted with oil lamps. All trainmen are uniformed. About 94 per cent. of the freight equipment has automatic couplers and 54 per cent. has air brakes. The balance are being equipped as rapidly as possible. They have grab irons on the sides and ladders on the ends. Car repairers, when at work, are protected by blue flag.

Recommendations.—That cattle guards be put in at all highway crossings on the Penn Yan Branch; that crossing signs have the lettering changed to 9 inches, as required by law.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

FITCHBURG RAILROAD.

(Inspected August 10 and 11, 1890.)

The main line of the Fitchburg Railroad extends from the Vermont State line to Troy and also to Rotterdam Junction on the line of the West Shore Railroad, a distance of 89.47 miles. The road is single track, excepting that portion from Sniders to Mechanicville, a distance of 6.94 miles, which is double track. The two lines from Vermont State line to Johnsonville, although at places widely separated, are operated as double track, although treated as separate lines, and are considered as such in

this report. The road is standard gauge and laid with 60, 76 and 85-pound steel rail (about 5 miles 60-pound, 7 miles 85-pound, and the balance 76-pound rail). The 60-pound rail is connected by angle plates 24 inches in length with 4 bolts. The 76-pound rail is connected by Fisher joints. The 85-pound rail is connected by "continuous joints" 24 inches in length with 4 bolts. The ties—about two-thirds chestnut and the balance oak, yellow pine and cedar, in about equal proportions—are 6 x 8 inches, and 8 feet in length; 17 are laid to a 30 foot rail. The cuts are taken out to the proper width and slope. The embankments are full width, and the roadway is well ditched. No sub-drainage is used. The ties are in good condition and comparatively few renewals will be required this season. A few tie plates are in use and give satisfactory results. The 60-pound rail is much worn; the 76-pound rail is considerably worn, especially at the joints; the 85-pound rail is in excellent condition and has all been put in since the last inspection. All connections are full bolted and nuts are screwed up tight. The joints, line and surfacing are good. All curves are correctly lined, and have proper elevation for speed of fast trains. The maximum curve is nine degrees, located at Sniders. The maximum grade is 42 feet per mile, near Melrose. The switches in main track are all split point; in sidings and yards, both split point and stub switches are used. The split-point switches have automatic stands; all switch-stands have targets, and targets are well painted. Frogs in main track are spring rail. Rigid frogs are used in sidings and yards. The guard-rails are not blocked. The track is ballasted with gravel in fair quantity. Five miles of track has been reballasted this season. No shims remain in use.

The Lebanon Springs Railroad is crossed at grade at Petersburg Junction; the crossing is protected by interlocking signals and derailing switches properly located in all tracks. The road which is used as west-bound track crosses over that which is used as east-bound track at Hoosac Falls. The east-bound track crosses under the Bennington Branch at Hoosac Junction, and also crosses the bridge at Eagle Bridge, trains running for about one-quarter of a mile on a gauntletted track jointly with the Delaware and Hudson Company's trains. This practically constitutes a grade crossing and is protected by "banjo" signals, electrically operated. All trains are required to come to a full stop before entering upon the gauntletted track. The Delaware and Hudson Company's railroad is crossed at grade at Mechanicville; the crossing is protected by a ball signal, and all trains are required to come to a full stop before crossing. The Delaware and Hudson Company's railroad crosses underneath west of

Elnora. The New York Central and Hudson River Railroad also crosses underneath west of Schenectady. Connection is made with the West Shore Railroad at Rotterdam Junction. The right of way is fenced, mainly with wire, which is in good repair. All trees, brush and weeds are cut and removed, and the right of way is generally clean and free from rubbish. The highway crossings are well planked and the approaches are properly guarded. The figure "4" crossing sign is used. There are many overhead bridges less than 20 feet above the track; warning signals are maintained at all such obstructions. Wooden slat cattle guards are used generally; a few pit guards were also noticed. The mile posts are in good condition. The whistle posts are at the proper distance from all crossings. The bridges, open culverts and cattle passes are good. The abutments and piers are of cement and masonry. The only wooden trestle on the line is of excellent construction, and the timber, all yellow pine, thoroughly sound and well painted. All bridges are of iron or steel, and with very few exceptions, well painted. The bridges, open culverts and cattle passes and the trestle have standard floors of good design, with guard timbers notched on the ties and securely bolted to them. All the floors are well maintained. Many of the longer bridges have inside guard-rails. The openings under or through embankments are stone arch, stone box culverts or cast iron pipes, all in good condition.

The sections are seven miles in length, and a foreman and five trackmen are employed upon each; each gang is provided with flags and lanterns. No regular track-walkers are employed, but a member of each gang examines the track daily.

The stations are neat and clean and in good sanitary condition; all are provided with drinking water and a time table of the road is posted in each. Agents can check baggage to any point to which they sell tickets. The station platforms are of plank and gravel and are in good condition. The station grounds are neat and clean, and in some cases ornamented by grass plots with shrubs and flowers. A few of the principal stations are provided with fire protection. The station employees are uniformed, and wear badges indicating their employment.

The coaches are in good condition, with drinking water in each. They are equipped with automatic couplers and air brakes; are heated by steam and lighted by Pintsch gas and oil lamps, and have tools located in the center of each. All passenger trainmen are uniformed and wear badges. The larger portion of the freight cars are equipped with automatic couplers and air brakes, and the balance are to be fitted out as rapidly as possible. Box cars have grab irons on the sides and ladders on the ends.

Recommendations.—That inside guard-rails be laid and maintained upon all bridge structures; that they be placed approximately 8 inches from the track rails, the entire length of the bridge, and then run to a point in the center of the track, at least 50 feet from the end of the structure. That the gauntletted tracks at Eagle Bridge, which are used jointly with the Delaware and Hudson Company's railroad, be protected by interlocking switches and signals.

Bennington Branch.

(Inspected August 10, 1899.)

The Bennington Branch extends from Hoosac Junction, on the main line, to the Vermont State line, a distance of 5.04 miles. The road is single track, standard gauge, and laid with 60, 72 and 76-pound steel rails. The rails are connected by angle plates and continuous joints 24 inches in length with 4 bolts. The ties—two-thirds chestnut and the balance oak, cedar and pine—are 6 x 8 inches and 8 feet in length; 17 are laid to a 30-foot rail. The cuts and embankments are all of proper width and slope. The roadway is well ditched. No sub-drainage in use. The ties are all in good condition, evenly spaced and full spiked. The rails are in fair condition; all joints are full bolted and all nuts are tight. The joints, line and surfacing are good. The maximum curve is 4 degrees. The maximum grade is 50 feet per mile. Curves are well lined and properly elevated. Main line switches are split point; stub switches are used in yards. Main line switches have automatic stands; all stands have targets well painted. Main track frogs are spring rail. Frogs and guard-rails are not blocked. The track is ballasted with gravel in fair quantity. No shims remain in use.

The right of way is fenced and the fences are in good repair. All trees, brush and weeds are cut, and the right of way is generally clean. The condition of yards and sidings is good. The highways are properly planked and graded. The figure "4" style of crossing sign is used and conspicuously placed at all highways; all are well painted. Warning signals are placed where overhead structures are less than 20 feet above the track. The cattle guards are of the wooden slat pattern. Whistle and mile posts are properly located. Bridges, open culverts and cattle passes are in good condition. Bridge structures are almost entirely of iron or steel, and are well painted. A three span wooden Howe truss, near North Hoosick, has been strengthened by an arch extending through the three spans. The timbers are in very fair condition, and show no indication of weakness or over-straining.

The bridge deflects no more than it should under trains, and is undoubtedly sufficiently strong. The bridge is covered.

The same condition of stations and equipments exists upon this as upon the main line.

Recommendations.—That inside guard rails be laid and maintained upon all bridge structures.

Saratoga and Schuylerville Division.

(Inspected August 11, 1899.)

The Saratoga and Schuylerville Division extends from East Saratoga Junction to Saratoga and Schuylerville, a distance of 25.52 miles. The road is single track, standard gauge, and laid with 56-pound steel rail. The rails are connected by fish-plates 20 inches in length with 4 bolts. The ties—about one-half chestnut and the balance oak, pine and cedar, in about equal proportions—are 6 x 8 inches and 8 feet in length; 17 are laid to a 30-foot rail. The cuts are taken out to fair width, excepting rock cuts, where sufficient room is not provided for ditching. Slopes are fair. Embankments are full width. Part of this line is poorly drained, material washed down from the slopes having almost entirely filled the ditches. No sub-drainage in use. The ties are in fair condition, evenly spaced and full spiked. The rail is in medium condition. Connections are full bolted, and very few bolts have loose nuts. The curves are well lined and have proper elevation. The maximum curve is $6\frac{1}{2}$ degrees. The maximum grade is 53 feet per mile. The switches are split point. Switch-stands are automatic; all switch-stands have targets well painted. The frogs in main track are spring rail. Frogs and guard-rails are not blocked. The ballast is gravel in medium quantity. No shims remain in use.

The right of way is fenced and the same are in good condition. All trees, brush and weeds are cut, and the right of way is clean and free from rubbish. Yards and sidings are in good condition. The highway crossings are properly graded and well planked. Figure "4" crossing signs are provided at all highways. The cattle guards are of the wooden slat pattern. Whistle posts are located at the prescribed distance from all crossings. The mile posts are of stone. Warning signals are erected wherever overhead obstructions are less than 20 feet above the track. The iron bridge structures are in good condition, as are also open culverts and cattle passes. There are quite a number of trestles on this line, aggregating in length approximately one-half mile. One of them, about 200 feet in length, has been renewed this season, and repairs made on others. None of them are in bad

condition, although in some the timbers are beginning to decay, and will need extensive repairs shortly. The sections are 7 miles in length, and a foreman and five trackmen are employed upon each. No regular track-walker is employed, but a member of each gang examines the track daily. Each gang is provided with flags and lanterns.

The same condition of stations and equipments exists upon this as upon the main line.

Recommendations.—That inside guard-rails be laid and maintained upon all bridge structures.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board, especially with reference to protecting the gauntletted tracks at Eagle Bridge with interlocking switches and signals. The company notified the Board: "That the matter of protecting all bridges with guard rails will be taken up with a view to gradually protecting all bridges in such manner." The company demurred, however, to protecting the gauntletted tracks at Eagle Bridge in the manner recommended by the Board. After securing further information from the company as to the manner in which the gauntletted tracks are operated, and after consideration, the Board did not take steps to enforce its recommendation in this regard.

FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD.

(Inspected June 1, 1899.)

The Fonda, Johnstown and Gloversville Railroad extends from Fonda, on the line of the New York Central and Hudson River Railroad, to Northville, a distance of 26.17 miles.

The road is single track, standard gauge, and laid with steel rail 70 pounds to the yard, connected by angle plates 24 and 36 inches in length, with 4 and 6 bolts. The ties are 6 x 8 inches and 8 feet in length; about two-thirds cedar and one-third yellow pine, and 16 are laid to a 30-foot rail. The cedar ties are used on straight lines, and the yellow pine mainly on curves. The maximum curve is 12 degrees, located near Fonda. The maximum grade is 121 feet to the mile, near Sammons ville. The cuts are generally taken out to fair width and slope. The embankments are all full width and proper slope. The roadway is fairly well ditched; no sub-drainage is used. The ties in use in main track are in fairly good condition; some decayed ones were found. About 5,500 ties were renewed in 1898, and about 7,000 are provided for 1899, and are now being put in track. The ties in sidings are cedar and are also in fair condition. All ties are full spiked and properly spaced. The rail in main track is in good condition, and the rail in sidings, which is mainly 56-pound steel, is in fair condition. The angle plates are full bolted and very few bolts were found loose. The joints, line and surfacing

are fair, and curves appear to have proper elevation. The switches are all point, with rigid stands, with targets fairly well painted. The frogs are rigid. Guard rails and frogs are not blocked. The track is ballasted with sand and gravel in moderate quantity. No shims were found in track. The fences are in fair condition. Trees, brush and weeds are cut, and the right of way is generally clean. Condition of yards is fair.

The principal openings are spanned by iron, lattice and plate girder bridges, with proper floor systems. The smaller openings are generally in good condition. In some cases slight repairs are needed, which Superintendent advised would be promptly made. The 104-foot lattice deck truss over Cayadutta Creek, near Fonda, is evidently too light, and should be either strengthened or replaced by a stronger structure. The ties on bridges are 8 x 10 inches and 10 feet in length, spaced 18 inches center to center. Guard timbers are 6 x 8 inches, notched and bolted. On trestles, open culverts, etc., ties are 6 x 8 inches by 10 feet in length. Guard timbers same as on bridges. No water is kept on bridges and trestles as protection against fire. With one or two exceptions there are no cattle guards at road crossings.

The stations are clean, and sanitary condition is good. A sign is on each, giving name of same. The principal stations are furnished with drinking water; the smaller ones are not. A timetable of the road is posted in each station. The agent can furnish checks to all points where he sells tickets. Station platforms are plank and are well kept up. Only the agents at the larger stations have uniforms. There are no mile posts or whistle posts erected. Whistle posts are being prepared and will be put up in the near future. The coaches are in good condition, with drinking water in each. They are properly furnished with tools. Cars are heated by steam from the engine. All trainmen are uniformed. Cars are equipped with automatic couplers, and lighted with oil. The highway crossings are well planked. Crossing signs are all triangular form, with proper lettering.

Recommendations.—That the bridge over Cayadutta Creek be strengthened, or replaced by stronger structure; that whistle and mile posts be erected.

Broadalbin Branch.

(Inspected June 1, 1899.)

The Broadalbin branch of the Fonda, Johnstown and Gloversville Railroad extends from Broadalbin Junction to Broadalbin, a distance of 6.2 miles.

The road is single track, standard gauge, and laid with steel rail 56 pounds to the yard. The rail is connected by angle plates

24 inches in length, with 4 bolts. The ties are cedar, 6 x 8 inches and 8 feet long, and 14 are laid to a 30-foot rail. The maximum grade is 70 feet to the mile, at State road. The maximum curve is 6 degrees, at Johnstown road. The condition of the rail is medium. Some bolts were found missing and many nuts loose. The joints in many cases are low, and the line and surface but medium. Some cuts are narrow and embankments not full width. Ditches are not sufficient. Switches are all point and in fair condition. Switch stands are rigid, with targets fairly well painted. Frogs are rigid. Guard rails and frogs are not blocked. Sidings are in fair condition. Fences are fair. No cattle guards are used. Road crossings are well planked. Crossing signs are diamond pattern, with 9-inch letters. There are no whistle or mile posts. The right of way is generally clear of brush and rubbish. Ties are in fair condition and well spaced. All ties are full spiked. The policing is fair. Stations are in good condition.

There are no large bridges on the road. Two trestles, from 200 to 300 feet in length each, have been practically filled, with the exception of opening left for putting in culverts at waterways. The timber in structure at these places is in good condition and sufficient. Open culverts and cattle passes have timber abutments planked behind, for supporting the embankment. They are all in thoroughly safe condition and are provided with sufficient floors. Sand ballast is used in medium quantity.

Recommendations.—Whistle and mile posts should be erected, cuts and fills widened, and proper ditches made.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with.

GENESEE AND WYOMING VALLEY RAILROAD.

(Inspected June 7, 1899.)

The Genesee and Wyoming Valley Railroad extends from Greigsville, on the Delaware, Lackawanna and Western Railroad, to Pittsburg and Lehigh Junction of the Lehigh Valley and Buffalo, Rochester and Pittsburgh Railroads, a distance of 14.39 miles, and the Retsof Branch, from Retsof, on the main line, to a junction with the Western New York and Pennsylvania Railroad near Piffard, a distance of 2.7 miles.

The road is single track, standard gauge. The main line is laid with 67-pound rail, connected by 30-inch angle plates, with 6 bolts. The Retsof Branch is laid with 56-pound rail, connected

by 24-inch angle plates, with 4 bolts. The ties are 6 x 8 inches by 8 feet in length, and 16 are laid to each 30-foot rail. The cuts are taken out to good width and slope and the embankments are of good width and proper slope. The roadway is well ditched; no sub-drainage is used. The ties on main line are in good condition, evenly spaced and full spiked. No tie plates are used.

(The Retsof Branch has not been in operation for four years. The ties and everything connected with the track on this branch are in bad condition. It is not to be operated until rebuilt.)

The maximum curve is 11 degrees, at Pittsburg Junction. The maximum grade is 53 feet per mile, at the crossing of the New York Central and Erie railroads near Pittsburg Junction. The condition of the 67-pound rail is good. The bolts are all in and nuts tight. The joints, line and surfacing are fair; ditches are good. The switches are all point. Both automatic and rigid stands are used. All stands have targets and are well painted. The sidings and yards are fair. Fences are good. Road crossings are well planked. Crossing signs are of the diamond pattern, with 9-inch letters. Mile and whistle posts are properly placed. The right of way is clean, all brush and rubbish being removed. Stations are neat and well painted. The road runs no passenger trains and no agents are employed at any of the stations. Station platforms are plank and in good condition. The bridges and open culverts have been generally repaired; they are provided with proper floor systems.

There are three pile trestles on the road from 360 to 500 feet in length. Many of the piles have decayed near the surface of the ground and are being spliced, as a temporary way of repairing them, the intention being to fill the trestles in the near future. The repairs, as being made, are all right, provided trestles are filled promptly. There is no protection against fire.

Recommendations.—That water be placed upon trestles, as protection against fire; that the repaired trestles be at least partially filled at once.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with.

GRAND TRUNK RAILWAY.

ALBANY, N. Y., December 11, 1899.

To the Board of Railroad Commissioners:

Gentlemen.—On December 4, 1899, I inspected that portion of the Eastern Division of the Grand Trunk Railway in the State of New York, extending from the International boundary to Rouses Point, and respectfully submit the following report:

A portion of the Eastern Division of the Grand Trunk Railway in the State of New York extends from the International boundary to Rouses Point, a distance of 1.21 miles. The road is single track, standard gauge, and laid with 62-pound steel rails, connected by fish plates 20 inches in length, with 4 bolts. The ties (principally cedar) are 6 x 8 inches and 8 feet in length; 14 are laid to a 24-foot rail. The roadbed is properly graded and well drained. The ties are in good condition. The rails are about 24 feet in length and are laid with square joints; their condition is about medium. The fish plates are very good and are generally full bolted and all bolts tight. The joints, line and surfacing are good. There is but one curve, and that in Rouses Point yard; it is about 2 degrees, well lined and properly elevated. The grade is practically level. The switches are all stub and have rigid stands with well-painted targets. The frogs are rigid. Switches and frogs are in good condition and are properly blocked. The track is very well ballasted with cinders. The tracks connect with the Delaware and Hudson and the Ogdensburg and Lake Champlain railroads at Rouses Point.

The fences are of wire and are in excellent condition. No trees, brush or weeds remain upon the right of way.

The yard and sidings are in very fair condition, excepting that there is considerable iron rail, very much worn, used in the yard. Large wooden blocks are used to prevent cars on sidings from running or being pushed so as to foul the main track.

The only openings to grade are two open culverts and two pit cattle guards. One open culvert, 12-foot span, has good masonry and heavy wooden stringers, with the rail laid directly upon the stringers and without ties; the other open culvert has timber abutments, in fair condition, with heavy wooden stringers, ties and guard timbers. The two pit cattle guards are entirely of wood, and the rails are laid directly upon the stringers.

The only highway crossing is properly graded and well planked. The crossing sign is of the long board design and lettered in both English and French, and is in good condition, but the letters are not of legal size (9 inches in length), and it is only lettered "Railroad Crossing."

There are no overhead obstructions. Mile posts are maintained and whistle posts are at the prescribed distance from the crossing.

The section of which this is a part is 5 miles in length, and the present force consists of a foreman and two trackmen. No regular track-walker is employed. The company has no stations in this State, but occupies an office in the Delaware and Hudson Company's building at Rouses Point. The Delaware and Hudson Company's passenger trains to and from Montreal run over

this road. The Grand Trunk Railway also runs a mixed train, and all freight trains are handled by that company. The regular passenger and freight equipments of those roads are used and are in good general condition.

Recommendations.—That regular floors with ties and guard timbers be maintained on the open culverts and cattle guards, and that stub switches be replaced with split point switches.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

GREENWICH AND JOHNSONVILLE RAILWAY.

(Inspected August 8, 1899.)

The Greenwich and Johnsonville Railway extends from Johnsonville, on the line of the Fitchburg Railroad, to Greenwich, a distance of 14.65 miles. The road is single track, standard gauge, and laid with 56, 60, 65 and 67 pound steel rail. The rail is connected by fish plates 20 inches in length and angle plates 22 inches in length, with 4 bolts. The ties, about three-fourths chestnut and one-fourth oak, are 6 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The cuts are taken out to proper width and slopes; the embankments are full width. The ditches are in very fair condition. No sub-drainage is used. The ties are in good condition; 5,500 have been renewed this season. No tie plates are used. The 56-pound rail is much worn; the other rail is in fair condition. The fish plates are considerably worn; a few are broken and a half plate is used on the inside. The angle plates are very fair. A few track bolts are missing and very many loose. The lines and surface of the track are good. Curves are well lined and have regular and proper elevation. The maximum curve is approximately 8 degrees; the maximum grade is 90 feet per mile for short distances. Main track switches are all split point, and switches are stub. Main line switches have automatic stands; yard switches have rigid stands. All switch stands have tangents and are well painted. The frogs are all rigid. Frogs and guard rails are not blocked. The track is well ballasted with gravel. No shims remain in use. The right of way is fenced. Fences are of wire and fairly well maintained. All trees, brush and weeds are cut and the right of way is clean. The yard and sidings are in good condition and free from rubbish.

Highway crossings are well planked and properly graded. The crossing signs are principally long boards, extending across the traveled road. A few are of the figure "4" design. They are properly located at all crossings and are well painted. The

cattle guards are wooden slats. Whistle posts are erected at proper distances from all highway crossings. There are no mile posts. There are no overhead obstructions less than 20 feet above the tracks. The bridges are in very fair condition; they all have proper floors, with guard timbers notched and securely bolted. The length of each section is 7 miles and a foreman and 6 trackmen are employed upon each. The stations are clean and in sanitary condition. Drinking water is provided in each and a time table of the road is posted. A sign is upon each giving its name. Agents can furnish checks to all points to which they sell tickets. The station platforms are planked and well maintained. Station grounds are in fair order. Station employees are not uniformed. The coaches are in good condition and clean, and drinking water is provided in each. Tools are located in center of cars. They have automatic couplers and air brakes, are heated by stoves and lighted by oil lamps. The freight cars have automatic couplers and air brakes.

Recommendations.—That the worn and broken fish plates be removed and good ones put in their place; that missing track bolts be supplied and all nuts screwed up tight; that inside guard rails be placed upon the two long Howe truss deck bridges for additional safety.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company replied that the recommendations would have attention.

JAMESTOWN AND CHAUTAUQUA RAILROAD.

(Inspected June 9 and 10, 1899.)

The Jamestown and Chautauqua Railroad extends from Jamestown to Mayville Junction, a distance of 21.17 miles, from which point, by trackage arrangement, its trains run upon the tracks of the Western New York and Pennsylvania Railroad to Mayville, a distance of 1.20 miles. From Mayville the Chautauqua Branch extends to the Chautauqua assembly grounds, a distance of 2.68 miles. Another branch connects with the main line at Clifton and extends to a connection with the Dunkirk, Allegheny Valley and Pittsburg Railroad at Falconer, a distance of 3.39 miles: Making a total in main tracks of 27.24 miles.

The road is single track, standard gauge, and laid with 60-pound steel rail, connected by angle plates 24 inches in length, with 4 bolts. The ties are mostly 6 x 8 inches and 8 feet in length, about equal proportions oak, chestnut, yellow pine and hemlock, and 16 are laid to a 30-foot rail. A large majority of the hemlock ties, as well as quite a proportion of the chestnut,

and some of the oak are badly decayed and need renewing; about 6,500 ties were renewed last year, and at least 16,000 should be renewed this season; in places where there are several rotten ties in a bunch some new ones should be put in very promptly. The ties on the Mayville and Chautauqua branch are especially bad and need attention at once. The switch ties are also getting badly decayed and need renewing. Some sets switch ties are being made ready, and cross ties are being received and put in track. The rail is generally in fair condition, excepting on the Mayville and Chautauqua branch, where it is only medium; the joints are full bolted with very few exceptions, and nuts are screwed up tight. No cracked angle plates were found. The switches are all point, with rigid stands; switch targets are well painted; rigid frogs are used; all frogs and guard-rails are blocked. The joints, line and surfacing of track are only medium; many joints are low, and line and surface irregular. However, there are indications of improvement, and the present management appear to realize the necessity of bettering the general condition of tracks, etc., and are taking necessary measures to accomplish that result.

There are about 60 bridges, trestles and open culverts on the line. They are generally in good condition; many of them were renewed or extensively repaired last season, and repairs are now being made to others, which, when completed as planned, will put all the structures in thoroughly safe condition. Eighteen openings to grade have been closed by putting in iron pipe and filling, and it is proposed to close some others in like manner. The stations where agents are employed are in good condition. A few where there are no agents have windows broken and doors off the hinges, presenting a poor appearance. The platforms are in fairly good repair. Water for drinking is kept in the larger stations. Time tables are posted, and agents can check baggage to points where they sell tickets. The brush and weeds on the right of way are but partially cleared away, and in some cases brush has been allowed to grow so close to the track as to greatly obscure the view around curves and at highway crossings; they should be promptly cut. Some old ties, timber and rubbish on right of way should be burned or removed. The fences are fair. The equipment is in fair condition and consists of 5 locomotives weighing about 45 tons each, 5 coaches, 2 combination cars, 1 baggage, mail and express, and 5 open excursion cars, all provided with automatic couplers and air brakes, heated by steam and lighted by oil lamps.

Recommendations.—That brush and weeds be cut and burned; that all rubbish, old timbers and ties be removed or burned; doors and windows to flag stations be repaired; whistle and mile

posts be erected at proper places; that all trees standing near the track be cut; that very extensive tie renewals be promptly made.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with.

KANONA AND PRATTSBURGH RAILROAD.

(Inspected June 6, 1899.)

The Kanona and Prattsburgh Railroad extends from Kanona, on the Rochester Division of the Erie Railroad, to Prattsburgh, a distance of 11.44 miles.

The road is single track, standard gauge, and laid with 60-pound steel rail, connected by angle plates 26 inches in length, with 4 bolts. The ties are 6 x 8 inches and 8 feet in length, and 15 are laid to each 30-foot rail. The maximum curve is 9 degrees. The maximum grade is 100 feet to the mile. Some of the cuts are narrow, with steep slopes and without sufficient ditches. The embankments are all of fair width. No sub-drainage is used. The ties are oak, chestnut and hemlock, the larger proportion being oak, and there is quite a proportion of decayed ones; 2,000 were renewed in 1898, and 2,500 are provided for 1899. This is not sufficient; 4,000 ties should be put in this season. The ties are very evenly spaced and full spiked; no tie plates are used. The rail in main track and sidings is in fair condition. The angle plates are full bolted and very few bolts loose. The joints, line and surfacing are medium. The curves appear to have proper elevation. The switches are all point, with rigid stands, and targets fairly well painted; rigid frogs are used. Frogs and guard-rails are not blocked. The track is ballasted with gravel in small quantities. No shims in use. The fences are fairly well kept up. Trees, brush and weeds are cut, and the right of way is generally clean. The track is considerably grass-grown and weedy.

The bridges and open culverts are in fairly good condition. Bridge ties are oak, 6 x 8 inches and 8 feet in length, and are spaced 18 inches center to center. Guard timbers are 6 x 8, yellow pine, notched and bolted. A few of the smaller openings have the rails laid directly upon the stringers, without ties. The cattle guards are wooden slat pattern. Stations are in fair condition. Drinking water is not provided. Time table of the road is posted. Agents can furnish checks to points to which they sell tickets. Agents are furnished with lanterns and flags. Stations are clean. Platforms are plank and in good condition.

There is no protection against fire. Whistle posts are erected at proper distance from all highway crossings. There are no mile posts. The equipment consists of one engine weighing 45 tons, 1 coach, 6 box cars and 5 gondolas. The section force consists of 1 foreman and 6 men. The highway crossings are well planked. The crossing signs are of the long board pattern, with proper sized letters.

Recommendations.—That narrow cuts be widened and proper ditches provided; that the openings where rail is laid directly upon the stringers be provided with the proper floor systems; that extensive tie renewals be promptly made.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The president of the company informed the Board that: "I shall send this report to the superintendent of the railway at Prattsburgh, recommending that the suggestions of the inspector be complied with."

KEESEVILLE, AUSABLE CHASM AND LAKE CHAMPLAIN RAILROAD.

(Inspected July 12, 1899.)

The Keeseville, Ausable Chasm and Lake Champlain Railroad extends from Port Kent to Keeseville, a distance of 5.64 miles. The road is single track, standard gauge, and laid with 60-pound steel rail, connected by fish plates 20 inches in length, and angle plates 19 and 24 inches in length, with 4 bolts. The ties are 6 x 8 inches and 8 feet in length, about one-quarter oak, one-quarter chestnut and the balance yellow pine, cedar and butternut, in about equal proportions, and 16 are laid to a 30-foot rail. The cuts are taken out to the proper width and slopes. The embankments are of good width. The roadway is well ditched. No sub-drainage in use. The condition of ties is good, and very few renewals will need to be made this season. No tie plates are used, and no rail braces excepting at switches. The rail is in reasonably fair condition; a portion of it is somewhat worn at the joints. All angle and fish plates are full bolted, and all nuts are screwed up tight. The joints are in medium condition; the line is good, and surface fair. All curves are well lined and have proper elevation. The maximum curve is 9 degrees; the maximum grade 85 feet to the mile. Both split point and stub switches are used. The frogs are rigid. Switch-stands are nearly all rigid; they all have targets and are well-painted. The frogs and guard-rails are not blocked. The track is ballasted with sand and gravel in good quantity. No shims were found in use.

The right of way is generally fenced; fences are wire and in poor repair. All trees, brush and weeds are cut and the right of way is generally clean. The yards and sidings are in fair condition and clean. The highway crossings are fairly well planked and approaches properly graded. The diamond-shaped crossing sign is used entirely and is properly placed at all highway crossings; paint on a portion of the signs is dim, and should be renewed. There are no overhead obstructions less than 20 feet above the rail. There are no cattle guards in use.

Whistle posts are erected at proper distance from each crossing. There are no mile posts.

The bridges, trestles and culverts are generally in good condition. All the trestles and nearly all the open culverts and cattle passes have been renewed entirely with yellow pine timber of good dimensions, within the past two years. The cantilever bridge over Ausable Chasm is a fine structure, well painted and in first-class condition throughout. All masonry is laid in cement and is good. A portion of the smaller openings have abutments made of timber or wooden bents planked behind, to support embankment; all such are in good condition, excepting one 4-foot opening near the gravel pit about one-half mile from Port Kent, the bents of which are badly decayed, and temporarily blocking has been put in front of them to support the stringers. What is known as No. 1 trestle has some badly decayed timber for blocking under the sills, and the bents are settling; in consequence. The trestle is practically new, with the exception of the blocking.

One foreman and three sectionmen are employed. The stations are in fair condition, but should receive a coat of paint. A sign is on each giving its name. They are not furnished with drinking water. A time table of the road is posted. The agent can check baggage to all points to which he sells tickets. Station employees do not wear uniform. The station platforms are of plank and in fair condition. The station grounds are in medium condition.

The road has two combination cars and one regular coach; they are well-painted and clean. Attention was called to the steps of one car which were broken. No water is provided in the cars. Tools are carried in the end of combination cars; in the coach there are no tools. They have automatic couplers and air brakes, are heated by stoves and lighted by oil lamps. Trainmen wear uniform. This road has no freight cars and but one locomotive.

Recommendations.—That the dim crossing signs be painted; that the fences be repaired; that cattle guards be furnished and maintained; that tools be placed in proper position, in center of all passenger cars; that new blocking be put under the sills of

No. 1 trestle, and the 4-foot open culvert near the gravel pit be rebuilt at once.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company answered that the recommendations would be complied with, "and carried out this fall."

KINDERHOOK AND HUDSON RAILWAY.

(Inspected July 31, 1899.)

The Kinderhook and Hudson Railway extends from Niverville, on the main line of the Boston and Albany Railroad, to Hudson Junction, on the Hudson Branch of the Boston and Albany, a distance of 16.23 miles. The road is single track, standard gauge and laid with 56-pound steel rail, connected by angle plates 22 inches in length, with 4 bolts. The ties (about three-quarters cedar and the balance oak and chestnut) are 6 x 8 inches and 8 feet in length, and 14 are laid to a 30-foot rail. The cuts were apparently taken out to fair width and slopes, but the material in the hills through which cuts were made is a very heavy clay, mixed with quicksand, and has broken off and slid toward the track, carrying it out of line in many places and filling the ditches. The embankments have also slid at the bottom and broken off at the top, rendering them narrow at the top in places. No sub-drainage is used. Nearly or quite 50 per cent. of the ties are decayed, or cut by the rail, to the extent that they should be renewed. All ties are full spiked. No tie plates are in use. Many shims remain in the track. The rail is in medium condition. All angle plates are full bolted. Some bolts are loose and the thread worn so that tightening them does little good. They should be removed and new bolts put in their places. The joints, line and surface are only medium. Curves have about the proper elevation for the slow speed at which trains are allowed to run. The main line switches are all split point and are in fair condition. All switches have rigid stands with targets, and the same are well painted. All frogs are rigid. Frogs and guard rails are not blocked. The track is ballasted with gravel in limited quantity.

The right of way is fenced. Fences are wire and in poor condition. Trees and brush have been cut and removed from the right of way. Weeds and grass are now being cut. The sidings are in poor condition. The ties are poor and tracks not in good line or surface.

The highway crossings are fairly well cared for. The plank-ing is generally good and approaches very well graded. A sign

of the figure 4 design is located at each crossing, and has 9-inch letters, as required by law. There are no overhead obstructions less than 20 feet above the track. There are no cattle guards and no whistle or mile posts.

The iron truss bridges are rather light, but apparently sufficiently strong for the weight of motive power used. The ties and guard timbers on nearly all bridges are very much decayed; they are especially poor on the iron structures. Open culverts and cattle passes are in fair condition, with the exception of the floors, which are in about the same condition as on the bridges. The entire road is maintained as one section, and a foreman and six trackmen are employed. The stations are small, but clean and neat. There is a sign on each giving its name. Drinking water is provided in each and a time table of the road is posted. Agents can check baggage to all points to which they sell tickets. The station grounds are fairly clean. Station platforms are of plank and generally good. The coaches are in fair condition, with drinking water in each. They are furnished with tools located in the center of the car. They have automatic couplers and air brakes, are heated by stoves and lighted with oil lamps. Freight cars have automatic couplers and hand brakes. The Hudson Light and Power and Railroad Company, into whose possession the road has passed, has commenced to practically rebuild the road. It is to put in all new ties and new rails. A large force is now engaged widening the cuts and embankments, rebuilding pipe culverts which are broken, building masonry at the ends of them, repairing masonry wherever necessary, and distributing ties preparatory to laying new rail, and equipping the road for operation by electricity.

Regardless, however, of the fact that the road is being practically rebuilt, it is necessary, for safety, that new ties and guard timbers be placed at once upon all bridges and open culverts, and your inspector would, therefore, recommend that this be done.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that it would comply with the recommendations at once.

KINGS COUNTY ELEVATED RAILWAY.

(Inspected May 25, 26, 27 and 29, 1899.)

The Kings County Elevated Railway is an elevated structure in the borough of Brooklyn, and extends from Fulton Ferry through Fulton street to Manhattan crossing, thence through Snedeker

avenue to Eastern Parkway, thence through Eastern Parkway to Market street, thence through Market street to Liberty avenue, and thence through Liberty avenue to city line—a distance of 8.32 miles. A short line branching from Tillary street station on Fulton avenue connects with Brooklyn Bridge tracks, and the trains of the Kings County Railroad operate across Brooklyn bridge from about 10 a. m. to 4 p. m. The length of this connection is .06 miles, making total line 8.38 miles, all double track. The total mileage, including sidings, yards, etc., is 21.72 miles.

Your inspector walked beneath and also on top of the structure its entire length, and examined all its parts, as well as tracks and other items of maintenance, as carefully as possible in the time spent making the inspection. The foundations are brick piers of pyramidal form and about eight feet in depth, except where necessary to make them deeper to secure proper bottom (in some cases it was necessary to make them 30 feet or more). The base castings into which foot of columns rest are four feet square at the bottom and are two feet high; they are secured to the brick foundations by four heavy anchor bolts. The columns on main line are of Phoenix construction, and on Brooklyn bridge connection of lattice design. Foundations, base castings and columns are in excellent condition. The girders on main line, both longitudinal and transverse, are of the open webbed, or trussed construction; on Brooklyn bridge connection they are all plate girders. They were all found in good condition and very strong, the deflection under trains being so little as to be scarcely noticeable. There is practically no side movement, or sway, excepting a little on curves. The bracing on curve at corner of Market and Liberty streets could be somewhat improved, although no harm except loosening of a few rivets in laterals has resulted from present method, or apparent lack of bracing. No loose rivets were found in main girders, and but very few in lateral connections. All expansion bolts are in place and in proper condition. Paint on the metal structure is good, excepting about one mile at city line end, where it has scaled badly, and unless painted soon rust will cause injury. All timber used upon the structure is yellow pine. The ties are 6 x 8 inches and 8 x 8 inches by 10 feet in length on about two-thirds of the line, and on the other third they extend entirely across the structure under both tracks, and are 8 x 9 inches by 21 feet in length. All ties are hook bolted to the girders. The guard timbers are 6 x 8 inches, notched on the ties and are bolted to every second tie; they are used both on the outside and inside of the track rails excepting on curves, where steel rails, with cast separators, securely bolted to the gauge rails, are used instead of the wooden guard timbers. Some poor ties and guard timbers were noticed, although generally in fair condition. About 2,000 long ties and 1,000 short

ones were used in repairs in 1898; also about 98,000 feet B. M. of guard timber. Walks for the use of employees are maintained between the tracks. Some repairs to the walks are needed. The rails are steel, weighing 60 and 70 pounds to the yard, and are connected by angle plates, 24 inches in length, with 4 bolts. All point switches with automatic stands are used. Frogs are both rigid and automatic, the larger proportion being rigid. Metal tie plates are used on part of the road. The rails are in fair condition; the angle plates are good; no cracked or broken ones were found. Bolts are all in, and with very few exceptions nuts were screwed up tight. Switches and stands are all right. Some frogs are much worn and should be changed. All facing switches not connected with switch and signal towers are interlocked with signals, and cannot be thrown to siding without first setting signal showing danger to approaching trains. Interlocking switch and signal plants with towers are maintained at Fulton ferry, Brooklyn bridge, Tillary street, Atlantic avenue, Alabama avenue and city line. The entire line is equipped with automatic block signals, which are operated by the wheels of the trains, but are only put in operation during fogs or storms, excepting on curves where the view is obstructed; at all such places they are in constant operating condition.

The stations are clean and well kept and in good sanitary condition; they are generally well painted. Stairways appear to be sufficient. Women are employed as agents at some of the stations, and, aside from them, all train and station employees are uniformed and wear a badge indicating their employment.

The principal yard for storage of cars and engines is at Alabama avenue; some cars and motors are stored at Brooklyn bridge; also, small storage room is provided at terminals, and some other points. The main coaling station is at Alabama avenue; a small supply of coal for emergency use is kept at Fulton ferry. Water stations are at Fulton ferry, Brooklyn bridge, Tillary street, Atlantic avenue, Alabama avenue and city line. General repair shops are at Alabama avenue.

The rolling stock is kept in thorough repair. Engines are inspected daily. Cars are inspected each trip; they are kept neat and clean and in good sanitary condition. The equipment consists of 44 engines, weighing about 28 tons each; 20 electric motors, weighing about 33 tons each; 166 passenger cars and 6 flat cars. The cars of this company which run on Brooklyn bridge connection and across Brooklyn bridge are drawn by the electric motors. Some other short parts of the line are equipped for running the electric motors, and the balance of the road is expected to be fitted for operating by electricity. Train service varies through the various hours of the day, to suit requirements; during morning and

evening hours when travel is heaviest the trains run at intervals of $2\frac{1}{2}$ to $3\frac{1}{2}$ minutes; during balance of the day and evening, at intervals of 5 to 6 minutes, and during later hours of the night at intervals of 8 to 10 minutes.

Recommendations.—That loose rivets be replaced; that all poor ties and guard timbers be renewed, and that balance of the structure be painted.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The receiver of the company informed the Board that the recommendations were being complied with. So far as the recommendation as to painting the balance of the structure is concerned, the receiver informed the Board that the road was about to be sold, and the recommendation as to painting would be for the purchasers to comply with, but that he would see that the report of the inspector would be placed in the hands of the purchasers.

LAKE CHAMPLAIN AND MORIAH RAILROAD.

(Inspected July 13, 1899.)

The Lake Champlain and Moriah Railroad extends from Port Henry to Mineville, a distance of 7.66 miles. The road is single track, standard gauge and laid with steel rail weighing 62 and 70 pounds to the yard. The 62-pound rail is connected by angle plates 24 inches in length, with 4 bolts, and the 70-pound rail by angle plates 36 inches in length, with 6 bolts. But one mile of the track is laid with the 70-pound rail. The ties are 6 x 8 inches and 8 feet in length, about one-half yellow pine and the balance oak and hemlock. Sixteen ties are laid to each 30-foot rail. The cuts are of fair width and slopes. The fills are generally of good width, with proper slopes. The ditches are fair. There is no sub-drainage in use. The ties are in fair condition. About 10 per cent. will require renewing this season. New ties are being put in and more are arranged for. The 62-pound rail is in fair condition and the 70-pound in good condition. No tie plates are used and no rail braces excepting at switches. Angle plates are in good condition. All are full bolted and nuts screwed up tight. The joints, line and surfacing are fair. Curves have proper elevation and are well lined. The road is built among the mountains, and has, consequently, largely curved lines, with very steep grades and sharp curves. The maximum curve is 10 degrees. The maximum grade is 200 feet to the mile, with three switchbacks, in order to get up the mountain to the iron mines, to reach which the road was constructed. The switches are stub; switch stands rigid. Frogs are rigid. All switch stands have targets and are well painted. The frogs

and guard rails are not blocked. The track is ballasted with sand, gravel and tailing from the mines. No shims in use.

The right of way is generally fenced. Fences are board, wire and stone wall, and are in only medium condition. All trees, brush and weeds near the track are cut and removed. Small brush near the right of way line are not all cut. The yards and sidings are clean and in good condition. Highway crossings are well planked and approaches properly graded. Diamond-shaped crossing signs are properly placed at all highways. They are well painted and have 9-inch letters. Warning signals are in place wherever overhead obstruction is less than 20 feet above the rail. Cattle guards are of the wooden slat pattern. Some were taken out in making repairs to track and have not been put back. Whistle posts are in good condition and at proper distance from each crossing. There are no mile posts. The bridges and open culverts are in good condition. The only trestle is a temporary structure where there has been a washout. It is being filled and the filling is nearly completed. The road is divided in two sections, and a foreman and six men are employed upon each. There are no regular track-walkers, but some member of each gang goes over the track daily. The road has no station buildings and does no regular passenger business. It was mainly built to convey iron ore from the company's mines at Mineville to Port Henry, and does practically no other business. Persons who desire to ride on the train are carried in a four-wheeled car, about 15 feet in length, with side seats, which is attached and used as a caboose. The equipment consists of 9 locomotives, the heaviest weighing 67 tons, 1 directors' car, 2 four-wheeled cars used for passengers, 7 flat cars, with link couplers and hand brakes, 340 four-wheeled ore jimmies, with link couplers and hand brakes; a few have automatic couplers. Employees are not uniformed.

Recommendations.—That all missing guards be replaced and the remaining brush be cut and removed from the right of way.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD.

(Inspected August 22, 1899.)

The Lake Shore and Michigan Southern Railroad, in the State of New York, extends from Buffalo to the Pennsylvania State line, a distance of 69.50 miles.

The road is double track, standard gauge and laid with 65, 71 and 80 pound steel rail. The 65-pound rail is connected by angle

plates 24 inches in length, with 4 bolts; the 71-pound rail by angle plates 24 inches in length, with 4 bolts, and angle plates 48 inches in length, with 6 bolts; the 80-pound rail by angle plates 24 inches in length, with 4 bolts, and angle plates 32 inches in length, with 6 bolts. The ties are all white oak, 8 x 10 inches and 8½ feet in length and 15 are laid to a 30-foot rail. The cuts are taken out to extra width and proper slope. The embankments are also extra width. The roadway is thoroughly ditched. Sub-drains are used in wet cuts and at road crossings. The ties are in excellent condition, all renewals for the season having been made. They are evenly spaced and full spiked. The 65-pound rail is beginning to show the effect of wear, and will need renewing shortly. The 71-pound rail is also getting slightly flattened at the joints. The 80-pound rail is nearly new and in excellent condition. About one-half the track is laid with 80-pound rail, 41 miles of which have been laid since last inspection. All angle plates are full bolted and all nuts are tight. Joints, lining and surfacing are excellent. All curves are true to the line and properly elevated for fast trains. The maximum curve is one degree and forty minutes. Stone monuments are used to mark all curve points. The maximum grade is 16 feet per mile. Switches in main track are all split point; also the majority of switches in yards. All switch stands are rigid. They all have targets well painted. Outlying switches, in some cases, are protected by distant signals, interlocked electrically or otherwise with the switches. Derailing switches are in all sidings, connecting with the main track when grade descends toward main track. All frogs in main track are spring rail. Yard frogs are rigid. All frogs and guard rails are blocked. The track is ballasted with gravel in good quantity and quality. Forty-five miles of ballast has been placed since last inspection and additions to ballasting are now being made. No shims are allowed to remain in track.

The right of way is well fenced, being mainly of woven wire. All trees and brush have been cut and removed, and the right of way is clean and free from any sort of rubbish. The yards and sidings are clean and neat and the tracks well maintained. The highway crossings are properly graded and planked, obstruction to the view of approaching trains having been removed where possible. The crossings considered dangerous are protected by flagmen, flagmen and gates, or by electric bell signals. The crossing signs are diamond shape; they are properly located at all highways; but many of them need repainting. Warning signals are placed where overhead obstructions are less than 20 feet above the track. Cattle guards are of the wooden slat pattern and are in good condition. The mile posts are of stone.

Whistle posts are at the prescribed distance from all crossings. The bridges, open culverts and cattle passes are in good condition. The masonry is excellent. Bridge structures are almost entirely iron or steel, and are well painted. Bridge floors are of good design, abundant strength and in thorough repair. All the larger bridges have inside guard rails. Guard posts on prolongation of bridge trusses are not maintained. Openings under or through embankments are stone arch, stone box culverts and cast iron pipes; all in first class condition. Two freight tracks of the Erie Railroad are crossed in Buffalo yard; the crossing is protected by a tilting board signal. All trains come to a full stop before crossing. The Buffalo Creek Railroad is also crossed at grade in the Buffalo yard; the crossing is protected by interlocking switches and signals, with derailing switches in all tracks; trains do not stop when signals are in their favor. The track of the Erie Railroad is crossed at grade in the city of Dunkirk; movement of trains over the crossing is governed by a position signal located at the crossing. There are derailing switches in the Erie track, but none in the Lake Shore and Michigan Southern Railway tracks. The Erie track is not used by passenger trains, but all Erie local freight in or out of Dunkirk is run over this crossing to or from the Erie freight house. Erie trains come to a full stop before crossing; Lake Shore and Michigan Southern trains do not. Your inspector does not consider the precautions taken at this crossing sufficient. It is possible, with the present system, to place the signal in a position giving Erie trains the right to cross, with derailing switch in Erie track open. It is not possible, however, to set the signal in position giving Lake Shore and Michigan Southern trains the right to cross without the derailing switches of the Erie track being open. There being no derailing switches in the Lake Shore and Michigan Southern tracks, there is nothing to prevent a Lake Shore train getting into collision with an Erie train crossing over, should the signals be disobeyed by the engineer of the Lake Shore train. A modern interlocking plant should be installed at this crossing, operated from a tower, with the necessary outside work; derailing switches in all tracks and all directions; two home signals on the Erie track, and two home and two distant and two dwarf signals on the Lake Shore and Michigan Southern Railway tracks, in order to furnish a signal for all possible movements, and to prevent collisions in case signals are disobeyed. This would necessitate about a sixteen lever machine; and furnish all derailing switches with separate levers for facing joint locks. The length of each section is four miles of double track; one foreman and eight trackmen are employed upon each. A regular track walker is employed upon each sec-

tion. All section gangs are provided with flags, torpedoes and lanterns. The stations are neat and clean and in good sanitary condition; all are furnished with drinking water and a time table of the road is posted. There is a sign upon each giving its name. The agents can furnish checks to all points to which they sell tickets. The station grounds are neat and clean; at many of them are lawns, flower beds and foliage plants, presenting an attractive appearance. The station platforms are of plank and gravel and are well maintained. At a few of the larger stations there is fire protection. The agents and helpers are uniformed and wear a badge indicating their employment. The coaches are in first class condition; each is provided with drinking water, and are furnished with tools, located in the center of the cars. They are equipped with automatic couplers and air brakes, are heated by steam and lighted by Pintsch gas and oil lamps. All trainmen are uniformed. Freight cars are equipped with automatic couplers and air brakes. When car repairers are at work a blue flag is used to protect them.

Recommendations.—That inside guard rails be laid and maintained upon all bridge structures. That the crossing signs, where the paint is poor, be repainted. That a modern and complete interlocking plant be installed in place of the imperfect one at the crossing of the Erie freight track in the city of Dunkirk, or that all trains be required to come to a full stop before crossing.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

LEBANON SPRINGS RAILROAD.

(Inspected August 9, 1899.)

The portion of the Lebanon Springs Railroad in the State of New York extends from Vermont State line to Chatham, on the line of the Boston and Albany Railroad, a distance of 51.18 miles. Only a small portion of the road is now in operation; two trains in each direction are run daily between Petersburg Junction and Berlin, 10.7 miles, and one train in each direction weekly between Berlin and Stephentown, 10.9 miles. Inspection was made of the portion in operation, and this report covers only the part inspected.

The road is single track, standard gauge and laid with 56 and 65 pound iron rail, and 65-pound steel rail. The 56-pound iron rail is connected by wrought iron chairs, the 65-pound iron rail by fishplates 20 inches in length, with 4 bolts, and the 65-pound

steel rail by Fisher joints, or 20-inch fishplates, with 4 bolts. The ties, about three-quarters chestnut and one-quarter oak and hemlock, are 6 x 8 inches and 8 feet in length, and 15 are laid to a 30-foot rail. The earth cuts are of fair width and slopes. The rock cuts are narrow, allowing very little room for ditches. The embankments are full width. Ditching is poorly done, and in many places where needed, there are no ditches. The ties are very rotten, and at least 75 per cent. should be renewed quickly. In many places there are not sufficient good ties to prevent rail tipping and spreading, and but for the fact that the trains are light and run very slowly (8 miles per hour), derailment would be very frequent. The 56-pound iron rails are in very bad condition and unfit for use; the 65-pound iron rail is a little better, but not fit for main track use; the 65-pound steel rails are in only medium condition. The wrought iron chair connections are very poor; the rails do not fit the chairs, and the ties are so rotten that the spikes do not hold the chairs securely. The fish plate connections are not good; the plates are worn; some are cracked or broken. Many bolts are missing and a large proportion of them have loose nuts. The joints, line and surfacing are poor. Curves are irregular in line, surface and elevation. The maximum curve is about 7 degrees. The maximum grade is approximately 65 feet per mile. Switches are nearly all stub, and in poor condition generally; a very few are split point. Switch stands are rigid. Paint on switch targets is poor. All frogs are rigid; many are much worn. Frogs and guard rails are not blocked. The track is ballasted very lightly with gravel of poor quality. The Fitchburg Railroad is crossed at grade at Petersburg Junction. The crossing is protected by interlocking signals, with derailing switches properly located in all tracks approaching the crossing. Fences are "post and board" and in very poor condition. Trees are cut and removed from the right of way. Small brush and weeds near the track are cut, but near right of way lines considerable brush and weeds are allowed to remain. Yards and sidings are in poor condition. Highway crossings are very well graded, but planking is poor. Crossing signs are long boards extending across the traveled road. More than half the crossings have no signs. The pit cattle guard is used; some are lacking and many are useless on account of cross fences not being maintained. There are no whistle posts and no mile posts. There are no overhead obstructions less than 20 feet above the track. The iron bridges are in very fair condition, excepting that they want painting. All the Howe truss bridges are old, and there is considerable poor timber in them; they show no evidence of weakness, but will require careful watching, and renewal very soon. The trussed stringer bridges

are very fair. Nearly all trestles, open culverts and cattle passes have much decayed timber in them, and require renewals at once. Most of the bridge, trestle and culvert ties are in such condition that they are not fit to remain. Guard timbers are generally rotten or missing. The floor on the three span iron bridge over the Hoosick river is properly constructed and sound. Very many of the bridges, trestles and culverts have timber cribbing for abutments, and some of them are considerably decayed. The sections are 7 miles in length, and a foreman and two trackmen are employed upon each. The station at Berlin is in very fair condition; it is neat and clean. Water for drinking is provided, and a time table of the road is posted. Very few stations have agents, and the buildings are consequently neglected and present a poor appearance; they are generally poorly painted, or devoid of paint. Platforms are poor and station grounds uncared for. Station employees wear no uniform. Agents sell no tickets and check no baggage over other railroads. The coaches are clean and in very good condition; they have tools located in the center of the cars, are equipped with automatic couplers, and a portion of them have air brakes; they are heated by stoves, and lighted with oil lamps. Trainmen wear uniforms and badges denoting their employment. None of the freight cars belonging to the road is in use.

Recommendations.—That new rail, suitable for main track, be put in place of the iron rail, and proper connections provided; that all joints be full bolted and all nuts screwed up tight; that at least 75 per cent. of the ties be renewed; that point switches be put in, in place of the stub switches (now in bad order), and new frogs in place of the present worn out ones; that the track be properly lined; gauged and surfaced; that the decayed bridges, trestles, culverts, bridge floors and cribbing used for abutments, be renewed as quickly as possible; that fences be improved, right of way cleaned up, missing crossing signs restored, crossing plank put in where needed, and the road generally cleaned up and properly ditched. Your inspector does not think the road is, in its present condition, safe to operate, and unless decided improvements be made at once, respectfully recommends that the running of trains be discontinued.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

LEHIGH AND HUDSON RIVER RAILWAY, AND ORANGE COUNTY
RAILROAD.

(Inspected June 29, 1899.)

The portion of the Lehigh and Hudson River Railway in the State of New York extends from the State line to Greycourt, a distance of 14.50 miles, and the Orange County Railroad, operated by the Lehigh and Hudson River Railway, extends from Hudson Junction to Maybrook, a distance of 10.70 miles.

The road is single track, standard gauge and laid with steel rail. Ten and one-half miles of the Lehigh and Hudson River Railway are laid with 65-pound rail, and the balance, as well as the entire Orange County Railroad, is laid with 60-pound rail, connected by angle plates, 24 inches in length, with 4 bolts. The ties in main track of the Lehigh and Hudson River Railway are yellow pine, oak and chestnut, in nearly equal proportions, 7 x 9 inches and 8½ feet in length; and in main track of the Orange County Railroad 80 per cent. are yellow pine and the balance chestnut and oak, 6 x 8 inches and 8 feet in length; and 16 are laid to a 30-foot rail. The ties in sidings and yards are mainly chestnut, of same dimensions as those used in main track.

The cuts and embankments are of fair width and slopes. Ditches are medium; no sub-drainage. The ties are in fair condition; about 10 per cent. will require renewal this season. All ties are full spiked and well spaced. The 65-pound rail is in excellent condition, and has been in use but one year; the 60-pound rail is in fair condition. Angle plates are full bolted and nuts are screwed up tight. Joints, line and surfacing are very fair. Curves have proper elevation. General alignment and grades are very good. Maximum curve is 5 degrees. The maximum grade is 68 feet to the mile for a short distance. The switches are all point. Frogs are rigid. Switch-stands are automatic; they all have targets and are well painted. Frogs and guard rails are not blocked. The track is ballasted with gravel in moderate quantity.

The New York, Ontario and Western Railroad is crossed at grade at Burnside. The movement of trains over the crossing is governed by interlocking signals operated from a tower. All trains stop before crossing.

The right of way is fenced, and fences, mainly of wire, are in good condition. All trees and large brush are cut; some small brush is allowed to remain, but not where it obstructs the view of trains or at highway crossings. The condition of yards is fairly clean. The highway crossings are well planked and approaches well graded. The crossing signs are diamond shaped, lettering is proper size, but paint is very dim on many of them. Warning signals are in place where overhead structures are less than 20

feet above the rail. Cattle guards are of the steel slat pattern and are in good condition. There are no whistle posts and no mile posts.

The bridges, culverts and cattle passes are generally in good condition. Pin-connected bridges Nos. 100, 108 and 109 and triangular truss bridges Nos. 111 and 114 are too light and have been placed on bents; they are to be replaced by stronger structures. Several new plate girder bridges have been put in recently, replacing lighter and weaker iron bridges. New masonry at many bridges, culverts and cattle passes has been put in and more is to be done in the near future. An overhead bridge north of New Milford is but 16 feet and 7 inches above the rail.

The length of each section is 6 miles, and a foreman and 5 men are employed upon each. Each gang is provided with flags and torpedoes. No regular track-walkers are employed, but some trackman of each gang walks over the track daily, and then joins the gang and works with them the balance of the time. The stations are neat and clean and sanitary conditions good. The passenger station at Warwick is especially neat and attractive, with well-kept lawn and ornamented with foliage plants and flowers. The principal stations are supplied with drinking water. Time tables are posted. Agents can check baggage to all points to which they sell tickets. Station platforms are of plank and are in good condition. Water in pails, as a protection against fire, is kept in principal stations. Station employees are uniformed and wear a badge indicating their employment. The coaches are all in good condition, with drinking water in each. They are furnished with tools, located in the center of the car, are equipped with automatic couplers and air brakes, are heated by steam from engine and lighted with oil lamps. Baggage cars are supplied with tools for replacing derailed cars. Box cars have automatic couplers and hand brakes. Coal cars have pin and link couplers and hand brakes. Arrangements are being made to equip with automatic couplers and air brakes.

Recommendations.—That all brush on right of way be cut and burned, or removed; that all dim crossing signs be given a fresh coat of paint; that mile and whistle posts be erected at the proper places; that the overhead bridge north of New Milford which is but 16 feet and 7 inches above the rail be raised, if possible, so as to clear the rail 20 feet.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company notified the Board that it would comply with the recommendations.

LEHIGH AND NEW ENGLAND RAILROAD.

(Inspected June 28, 1899.)

The portion of the Lehigh and New England Railroad in the State of New York extends from the New Jersey State line to Liberty Corners, on the line of the Pine Island branch of the Erie Railroad, a distance of 3.78 miles; the Pochuck branch from New Jersey State line, near Glenwood, to Glenwood Junction, a distance of 2.69 miles.

The road is single track, standard gauge; the main line is laid with 60-pound steel rail and the Pochuck branch with 56 and 60-pound steel rail. The 60-pound rail is connected by angle plates, 26 inches in length, with 4 bolts; part of the 56-pound rail by angle plates, 24 inches in length, with 4 bolts, and part of them by fish plates, 22 inches in length, with 4 bolts. The ties are 6 x 9 inches and 8 feet in length, about half yellow pine and half chestnut, and 16 to 18 are laid to a 30-foot rail. The cuts are taken out to proper width and slope, and the embankments are generally of full width. The roadway is fairly well ditched; no sub-drainage in use. The ties are in good condition; they are full spiked, but spacing is very uneven; no tie plates are used. The rail in main line track is in good condition, and in Pochuck branch track in fair condition. A few track bolts are lacking and a few nuts are loose, but angle and fish plates are generally full bolted and nuts screwed up tight. The condition of joints, line and surfacing is very fair. No shims are in use. All curves have sufficient elevation for the speed of trains maintained; rail braces are used on all curves. The maximum curve in main line is 6 degrees, and in Pochuck branch 16 degrees. The grade of main line is practically level; the maximum on Pochuck branch is 211 feet per mile for nearly its entire length. The switches are point; the frogs rigid. All switches have spring stands with targets, and are well painted. The frogs and guard rails are not blocked. The track is fairly well ballasted with gravel and sand.

The right of way is fairly well fenced; fences are mainly wire. The trees are all cut; some small brush near outside of the right of way has not been cut, but none is left that obstructs the view of trains. There are no yards excepting a very small one at the junction with the Erie Railroad; that, as well as all sidings, is in very fair condition. Derails are in all sidings down grade toward main track. The bridges, trestles, open culverts, etc., are generally in good condition. A few piles in trestles are getting poor and need renewing; also a few stringers. Arrangements are made for making necessary repairs to all structures. Nearly all bridges and trestles lack guard timbers. Stringers and ties are sufficient. There are no cattle guards, no mile posts and no whistle posts.

Road crossings are fairly well planked and approaches properly graded. Crossing signs are of the X form, with 6-inch letters. There are no stations in this State. One combination car runs in mixed train over this road in the State of New York; it has automatic couplers and air brakes, is heated by stoves and lighted by oil lamps. No tools are carried in car. Freight cars have pin and link couplers and hand brakes. Sections are 10 miles, and a foreman and six men are employed upon each. Trainmen are not uniformed.

Recommendations.—That all bridges, trestles and open culverts be provided with wooden guards not less than 6 x 8 inches, notched and bolted to every third tie; that whistle and mile posts be erected in proper places, and that crossing signs be made with legal sized letters.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that it would proceed immediately to comply with the recommendations.

LITTLE FALLS AND DOLGEVILLE RAILROAD.

(Inspected May 20, 1899.)

The Little Falls and Dolgeville Railroad extends from Little Falls, on the line of the New York Central and Hudson River Railroad, to Dolgeville, a distance of 10.32 miles. The road is single track, standard gauge, and laid with steel rail weighing 60 pounds to the yard, connected by angle plates 24 inches in length, with 4 bolts. The ties are yellow pine, cedar and hemlock, in about equal numbers; the yellow pine ties are used on all sharp curves, and the cedar and hemlock on tangents and slight curves; they are 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail. From Little Falls the road has an almost continuous ascending grade to Dolgeville, its entire length, the maximum being 110 feet per mile, located about midway. The maximum curves are 9 degrees; there are three of them, and many other sharp ones from 5 to 8 degrees. Leaving Little Falls the road winds around the side of a ledge of rocks, necessitating frequent and sharp curves, heavy rock cutting and high side fills. Most of these fills are supported by retaining walls constructed of rough, undressed stone and laid without cement; they are built with very little batter to resist pressure, and will require careful watching; some have been strengthened by another wall outside the first one. None of the retaining walls was found in an unsafe condition and they are apparently being given proper attention. At sharp curves on this part of the road

located along face of the ledge, steel guard-rails are used upon the inside of gauge rails for additional safety. This portion of the road is ballasted with stone, and line and surface are given special attention. The condition of the rail is good. The bolts are all in and screwed up tight. All point switches with rigid stands are used. Frogs are all rigid. The sidings are in fair condition. The ties are evenly spaced and generally in fair condition excepting near Dolgeville, where a considerable proportion of decayed ones were found. About ten per cent. of all ties should be renewed this season. Only 841 ties were renewed in 1898; 1,500 are ordered for 1899 and are now being put in track. All ties are full spiked. The joints, line and surface of track are fair. Curves are given special attention and are elevated for speed of about 30 miles per hour. The schedule speed of trains is about 20 miles per hour. The ditches are in medium condition; some of the cuts are not full width and slope, and there is scant room for ditches. Embankments are generally full width. The fences are well kept up. Road crossings are in good condition. Cattle guards iron, slat pattern, in good condition. Crossing signs of the diamond pattern, with 8-inch letters, are erected at all highways. There are no mile or whistle posts. The right of way is well cleaned. The stations are fair and in good sanitary condition; station grounds and platforms medium. The iron bridges and viaducts are in good condition. Bridge ties are yellow pine and oak, 8 x 8 inches and 8 x 12 inches by 12 feet in length. Wooden guard timbers are used on all bridges and trestles, 7 x 8 inches and bolted to every second tie; metal guard-rails are not used on bridges or trestles. There are many wooden trestles, and part of them are both high and long, the highest being about 90 feet high and the longest 500 feet in length. The bents are hemlock, generally resting on timber blocking. The stringers and ties are yellow pine. The trestles were extensively repaired last season; 133,000 feet B. M. of new timber were used in repairs. There are some poor sills, posts and caps yet remaining, which should be removed and new timbers put in. At part of the trestles, timber to do this was on hand, and the repairs being made. The superintendent informed your inspector that additional timber had been ordered for the other trestles, and all necessary repairs would be promptly made on its arrival. Barrels filled with water are maintained upon trestles, as protection against fire. The equipment consists of 2 locomotives weighing 45 tons each, 1 combination car, 1 closed coach, 2 open excursion cars, 2 box cars and 4 flat cars.

Recommendations.—That iron or steel guard-rails be placed upon all bridges and trestles; that sufficient ties be ordered and

put in to replace all rotten ones; that narrow cuts be widened so as to provide room for suitable ditches, and that such ditches be made where now lacking; that all poor timber in trestles be promptly renewed and those structures, especially where sills and bottoms of posts are covered with earth, be thoroughly and frequently examined.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company notified the Board that: "The recommendations which he makes will be promptly carried out by us." Subsequently, the company notified the Board of the progress that was being made, and asked for a modification of some of the recommendations. The Board did not object to the modifications suggested by the company.

LONG ISLAND RAILROAD.

(Sea Side Resorts.)

(Inspected May 4 and 5, 1899.)

The following branches and short lines of railroad owned or operated by the Long Island Railroad Company, leading from New York and Brooklyn to the various summer nearby resorts on south shore of Long Island, were inspected May 4th and 5th, 1899:

Long Island Branch.

The Long Beach Branch connects with the main line of the Long Island Railroad at Lynbrook and extends to Long Beach, a distance of 7.41 miles. It is single track, standard gauge, and laid with 56 and 62½-pound steel rail, connected by 24-inch angle plates, with 4 bolts. The ties are about 75 per cent. cedar and 25 per cent. yellow pine, 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

Far Rockaway Branch.

The Far Rockaway Branch connects with main line of Long Island Railroad at Valley Stream, and extends to New York and Rockaway Beach Junction, a distance of 8.05 miles; of this 1.24 miles is double track. It is standard gauge and laid with 80-pound steel rail and connected by 29-inch angle plates, with 6 bolts. The ties are yellow pine, 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

New York and Rockaway Beach Railway.

The New York and Rockaway Beach Railway connects with the main line of the Long Island Railroad at Glendale Junction,

and extends to Rockaway Park, a distance of 10.31 miles, all double track; and from Hammels to New York and Rockaway Beach Junction, a distance of 1.66 miles, single track. It is standard gauge and laid with 80-pound steel rail, excepting from Hammels to New York and Rockaway Beach Junction, and from Hammels to Rockaway Park, which is laid with 56-pound steel rail. The 80-pound rail is connected by 29-inch angle plates, with 6 bolts, and the 56-pound rail by 24-inch angle plates, with 4 bolts. The ties are yellow pine, 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

New York, Brooklyn and Manhattan Beach Railway.

The New York, Brooklyn and Manhattan Beach Railway connects with the main line of the Long Island Railroad at Fresh Pond Junction and extends to Manhattan Beach, a distance of 12.22 miles, and from Manhattan Beach Junction to Bay Ridge, a distance of 4.80 miles, all double track, standard gauge, and laid with 80-pound steel rail, connected by 29-inch angle plates, with 6 bolts. The ties are 90 per cent. yellow pine and balance cedar, 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

Prospect Park and Coney Island Railroad.

The Prospect Park and Coney Island Railroad extends from Ninth avenue and Twentieth street, Brooklyn, to Coney Island, a distance of 5.68 miles, of which 4.41 miles is double track. It is standard gauge and laid with 50-pound steel rail, connected by 24-inch angle plates, with 4 bolts. The ties are 90 per cent. yellow pine and balance cedar, 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

Prospect Park and South Brooklyn Railroad.

The Prospect Park and South Brooklyn Railroad extends from Fifth avenue and Thirty-sixth street, Brooklyn, to Kensington Junction, a distance of 1.71 miles, all double track, and laid with 70-pound steel rail, connected by 24-inch angle plates, with 4 bolts. The ties are yellow pine, 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

New York and Coney Island Railroad.

The New York and Coney Island Railroad extends from Coney Island terminal of the Prospect Park and Coney Island Railroad to Coney Island Point, a distance of 2.27 miles. It is single track,

standard gauge, and laid with 50-pound steel rail, connected by 24-inch angle plates, with 4 bolts. The ties are mostly cedar; a few yellow pine are used. They are 6 x 8 inches by 8 feet in length, and 16 are laid to a 30-foot rail.

The maximum grade is on the Prospect Park and Coney Island Railroad, near the Brooklyn terminal, and is 210 feet per mile. Grades on balance of all lines are light. The maximum curve is on the Prospect Park and South Brooklyn Railroad and is 16 degrees. The general alignment of all lines is fairly straight and curves are light. The ties are generally in good condition. About 20,000 new ones were put in in 1898, and it is expected to renew a like number in 1899. The condition of the 80-pound rail is good. The lighter rail is fair, with the exception of the Long Beach Branch, where it is considerably worn, especially at the joints. Some new rails should be put in on that line. The bolts are all in and generally tight. A few loose ones were found on the Long Beach Branch which should receive attention. The line, surface and ditches are in good condition. Iron pipe, stone box and arch culverts are used for the smaller water courses through the embankments. The switches are all point and in good condition. Switch stands are rigid. Both spring rail and rigid frogs are used, the large majority being rigid.

The fences are not kept up. It is claimed that the roads do not pass through a grazing country, and that fences are unnecessary. The road crossings are well planked, crossing signs are erected at each and whistle posts are in proper position. The right of way is kept clean, all brush and rubbish being removed or burned. The ties are well spaced and fully spiked.

The stations are kept neat and clean and sanitary condition good. A sign is upon each giving the name of the station. All stations are furnished with drinking water. The station grounds are well kept and at several stations are lawns, flower beds and foliage plants, presenting an attractive appearance. Station employees are uniformed and wear a badge indicating their employment.

The line and surface of track are good; curves are properly elevated; gravel and sand ballast is used and in good quantity. There are no cattle guards in use.

The structures were found in good condition. In the long trestle across Jamaica Bay, in the New York and Rockaway Beach Railroad, a few poor piles, stringers and ties were noted. New material with which to replace them is on hand and men engaged in putting it in. Water in barrels is kept upon trestles as protection against fire.

Taken as a whole, these roads are in thoroughly safe condition, and show evidence of being well cared for.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. A letter was received from the company, stating that the recommendations of the Board were being complied with.

MIDDLEBURGH AND SCHOHARIE RAILROAD.

(Inspected July 28, 1899.)

The Middleburgh and Schoharie Railroad extends from Middleburgh to Schoharie, a distance of 5.33 miles. The road is single track, standard gauge, and laid with steel rail 50 and 56 pounds to the yard, connected by angle plates 24 inches in length, with 4 bolts. The ties, principally oak, are 6 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot rail. A portion of the cuts are narrow and slopes have broken off, filling the ditches. The fills are of fair width and slopes. The ditches are in only medium condition; in some cases they are entirely filled with material washed down from the slopes. About ten per cent. of the ties are badly decayed and require renewal. A large portion of the rail was second-hand when laid in this track, and the joints are uneven; consequently the surface is rough. All angle plates are full bolted, but many of the bolts have loose nuts, which should be tightened and kept so. The curves are somewhat irregular, both in line and elevation, but as only slow speed is maintained this does not make them unsafe. The maximum curve is 4 degrees. The maximum grade is 40 feet to the mile, for short distances. The switches are all stub, with the exception of two, which are split point. Switch-stands are rigid; they all have targets; all targets need painting. The frogs are rigid. Frogs and guard-rails are not blocked. There is practically no ballast, and considerable weeds and grass are growing on the track.

The right of way is only fenced in a few places, where the adjoining land is used for grazing purposes. Trees and brush have been cut and removed from the right of way, and grass and weeds were being cut when the inspection was made.

The yards and sidings are in medium condition. The highway crossings are fairly well planked and approaches properly graded.

Triangular-shaped crossing signs are used, with 8-inch letters; they are properly placed, but their general condition is poor; a portion of them require renewal, and most of them need paint. There are no overhead obstructions on the road. Pit cattle

guards are used. There are no mile posts and no whistle posts. There are no large bridges. Small open culverts have dry masonry, in very fair condition. Flood openings are provided in a few places; they have masonry at ends and frame bents in center; they are all in fair condition, and have very fair floors with guard timbers notched and bolted. One section foreman and three trackmen are employed. There is only one station on the road, and that is located at Middleburg. This is in fair condition, is furnished with water and a time table is posted. The platform is of plank and in good condition. The yard at Middleburg is in fair condition. There are no other yards on the road. At Schoharie the station belongs to the Schoharie Valley Railroad. The coaches are in medium condition; there are no tools in them and no water provided for drinking purposes; they have automatic couplers and air brakes and are heated by stoves on account of being run in mixed trains, but are equipped for steam heating; they are lighted with oil lamps. The road has no freight equipment. It is operated in connection with the Schoharie Valley Railroad; the same trains run over both lines, each company putting on a conductor over its road; the balance of the train crews run over both lines.

Recommendations.—That all loose nuts be screwed up tight and kept so; that switch targets be painted; that poor crossing signs be renewed and the balance painted, and the letters be made 9 inches in length, as required by law; that mile and whistle posts be erected; that water be provided in passenger cars, and tools be carried in them, as required by law.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

NEW ENGLAND RAILROAD (N. Y., N. H. & H. R. R. Co.).

(Inspected August 29 and 30, 1899.)

The New England Railroad is operated by the New York, New Haven and Hartford Railroad Company. The portion of the road within the State of New York extends from the Connecticut State line to Hopewell Junction, and from Wicopee Junction to Fishkill Landing, a total length of 30.47 miles. Between Hopewell Junction and Wicopee Junction, a distance of 10.95 miles, the trains of this road run upon the tracks of the Newburgh, Dutchess and Connecticut Railroad. The road is single track, standard gauge, and laid with 66 and 79 pound steel rail. The 66-pound rail is connected by angle plates 22 inches in length with 4 bolts, and the 79-pound rail by angle plates 30 inches in

length with 6 bolts. Nearly the entire main track is laid with the 79-pound rail, the 66-pound rail being used mainly in yards and sidings. The ties, about three-fourths chestnut and one-fourth white oak, are 7 x 9 inches and 8 feet in length; 18 are laid to a 30-foot rail. The cuts are taken out to fair width and proper slope. The embankments are of good width and well up to grade. The roadway is well ditched. No sub-drainage has been done. The ties are evenly spaced, full spiked and are in excellent condition, all necessary renewals for the season having been made. A few tie plates are in use. The 66-pound rail is considerably worn; the 79-pound rail is in good condition. All connections are good; angle plates are full bolted and all nuts tight. The joints, line and surfacing are good. Curves are correctly lined, well surfaced and have proper elevation for speed of trains. The maximum curve is 7 degrees, located near Poughquay. The maximum grade is 72 feet per mile, near Fishkill Landing. The main track switches are all split point with automatic stands. All switch-stands have targets well painted. All main track frogs are spring rail. Frogs and guard-rails are not blocked. The track is ballasted with gravel in good quantity. No shims were found in use. No railroads are crossed at grade. Connection is made with the New York Central and Hudson River Railroad at Fishkill Landing, and by ferry transfer with the West Shore and Erie Railroads from same place, with Newburgh, Dutchess and Connecticut Railroad at Wicopee and Hopewell Junctions, also with the Central New England Railroad at Hopewell Junction, and with the New York and Harlem Railroad at Brewster. The right of way is fenced mainly with barbed wire; fences are in good repair. All trees, brush and weeds are cut and removed, and the right of way is clean and free from all refuse material. The yards and sidings are clean and tracks are in good condition. An extensive new yard is under construction at Hopewell Junction; 2½ miles of track has already been laid and several more are to be put down to complete the yard. The highway crossings are properly graded and well planked. A large portion of the crossings have been put under or over the railroad. The figure "4" form of crossing sign is used; they are in good condition and are correctly located at all highways. Warning signals are maintained where overhead obstructions are less than 20 feet above the track. Metal cattle guards are generally used. A few pit guards still remain but are to be filled and metal guards substituted. Whistle posts are at the prescribed distance from all highway crossings. The bridges, trestles, open culverts and cattle passes are all well maintained; all abutments and piers are good masonry. The iron structures

are well painted. Wooden bridges and trestles are sound and show careful attention with prompt renewal or repairs when necessary. All bridge structures have good and sufficient floor systems. Inside guard-rails are maintained on all where length of opening exceeds 12 feet. A new three track, plate girder bridge, with new masonry, replacing a single track wooden bridge, is being erected near Hopewell Junction, and repairs or renewals are being made to masonry and other small openings at various points on the road. A double-track pile trestle, across the bay at Fishkill Landing, will require renewal soon; the entire structure is getting old and indications of failure begin to appear. It is, however, in entirely safe condition now, but will require watching and frequent repairs until renewal is made.

The sections are five miles in length and a foreman and six trackmen are employed upon each. No regular track-walkers are employed but some member of each gang examines the track daily; also at extensive rock cuts watchmen are constantly employed, with distant semaphore signals under their control. The stations are neat and clean and in good sanitary condition. A sign is upon each giving its name. All are furnished with drinking water and a time table of the road is posted in each waiting room. The agents can check baggage to all points for which they sell tickets. The station grounds are clean and well kept. Station platforms are plank and gravel and are in good condition. No protection against fire is provided. Station employees are uniformed and wear a badge indicating their employment. The coaches are in excellent condition with drinking water in each, and are furnished with tools located in the center of the cars. They are equipped with Miller hooks and air brakes, are heated by steam and lighted with gas and oil lamps. All trainmen are uniformed. Nearly all freight cars are equipped with automatic couplers and air brakes, and balance are to be fitted up as fast as possible. Grab irons are on the sides and ladders on the ends of all box cars. Where car repairers are at work they are protected by a blue flag or lamp.

The road shows good careful maintenance and operation, and no recommendations appear necessary.

A copy of this report was sent to the company.

NEW YORK, CHICAGO AND ST. LOUIS RAILROAD.

(Inspected September 7, 8 and 9, 1890.)

The portion of the New York, Chicago and St. Louis Railroad within the State of New York extends from the Pennsylvania State line to Buffalo, a distance of 68.07 miles, of which 7.84 miles

between Silver Springs and Dunkirk is leased from the Lake Shore and Michigan Southern Railway. The road is single track, excepting the 7.84 miles leased from the Lake Shore and Michigan Southern Railway, which is double track; it is standard gauge, and laid with 60 and 63-pound steel rail ($4\frac{1}{2}$ miles are laid with 60-pound rail and the balance with 65-pound rail), connected by angle plates 24 inches in length, with 4 bolts. The ties, all white oak, are $7\frac{1}{2} \times 8$ inches and 8 feet in length; 16 are laid to a 30-foot rail. The cuts are taken out to full width and slope. The fills are also full width and slope. The roadway is well drained. No sub-drainage is in use. The ties are generally in fair condition; 20,000 have been renewed this season, and the renewals for the year are not yet completed. A large portion of the rail has been in use ten years, and is somewhat flattened at the joints. Eight miles of new rail have been put in since last inspection, and is in excellent condition. The angle plates are generally good, full bolted, and nuts are generally tight. The joints, line and surfacing are well cared for. All curves are well surfaced and appear to be regular; they are properly elevated for the speed of trains. The maximum curve is approximately $4\frac{1}{2}$ degrees near Blasdel. The maximum grade is 53 feet to the mile, near Farnham. The main track switches, and nearly all of those in yards, are split point; all have rigid stands, with targets well painted. Main line frogs, excepting in Buffalo yard, are spring rail. Frogs and guard rails are properly blocked. The track is ballasted with gravel in medium quantity. No shims were found in use.

The fences are generally poor; for nearly the entire distance the track is close alongside that of the Western New York and Pennsylvania Railway, and fences are maintained jointly. Many of the bridges and trestles are also joint structures. The two tracks of the Erie Railroad are crossed at grade near Buffalo Junction. The crossing is protected by a tilting board signal; all trains stop. The double track of the Delaware, Lackawanna and Western Railroad is also crossed at grade in the Buffalo yard; this crossing is protected by disc signals, located on a tower; all trains stop. The Buffalo Creek Railroad (two tracks) is crossed at grade in South Buffalo; the crossing is protected by a tilting board signal; all trains stop. The Buffalo Terminal Railroad crosses by an overhead bridge near Blasdel. The track of the Allegheny Division of the Erie Railroad and also that of the Dunkirk, Allegheny Valley and Pittsburgh Railroad are crossed at grade at Dunkirk. The crossings are protected by tilting board signals; all trains stop.

All trees, brush and weeds are cut, and the right of way is generally clean. Yards and sidings are also clean, and the tracks are in good condition. All side tracks, where grade descends toward main track, have derailing switches. The highway cross-

ings are well planked and properly graded. The "X" form of crossing sign is used. There are sixteen crossing flagmen employed, stationed at the principal crossings and where view of approaching trains is obstructed. Warning signals are in place where overhead obstructions are less than 20 feet above the track. No cattle guards are in use. The bridges, trestles, open culverts and cattle passes are generally in good condition. A few of the iron structures need painting. Most of the smaller openings have no masonry, and timber bents, planked to support the embankments, are used instead of abutments. A few of the trestles, especially Nos. 5, 17, 31 and 35 have some poor timber which should be renewed soon; Nos. 2, 3, 19 and 33 have poor floors which should also be renewed; others have some poor ties and guard timbers. All such were pointed out by your Inspector to the roadmaster and supervisor of bridges, who stated that they would receive proper and prompt attention. Water in barrels is kept at the ends of bridges and wooden trestles, and also placed on the trestles where length is sufficient to require it. Bridges No. 14, at Angola, and No. 21, at Silver Springs, each from 1,000 to 1,600 feet in length, formerly wooden trestles, have been replaced by steel viaducts, of excellent design since last inspection. All bridges have floor systems of good design, with guard timbers notched on the ties and securely bolted to them; all long bridges and trestles have inside guard rails. Guard posts are on the prolongation of all bridge trusses, but many of them are considerably decayed.

The sections are $5\frac{1}{2}$ miles in length, and one foreman and six trackmen are employed upon each. All section gangs are provided with flags, lanterns and torpedoes. No track-walker is employed, but the track is patrolled daily. The stations are clean, well painted, and the sanitary condition good; a time table of the road is posted in all waiting rooms. There is a sign upon each station giving its name. Only the principal stations are furnished with drinking water. Agents can furnish checks to all points to which they sell tickets. Station grounds are neat and clean. Platforms are plank, timber and gravel; all are in fair condition. No protection against fire is provided. Station men are uniformed and wear a badge.

Coaches are all in good condition, with drinking water in each. A fire extinguisher is carried in each car, and tools are properly located in the center of each car. The cars are equipped with automatic couplers and air brakes, are heated by steam and lighted by gas and oil lamps. All trainmen are uniformed and wear a badge. About 80 per cent. of the freight cars are equipped with automatic couplers and 30 per cent with air brakes. Ladders are maintained on the sides of cars instead of the ends. Car repairers, when at work, are protected by a blue flag.

Recommendations.—That the fences be put in proper condition; that cattle guards be maintained at all highways crossed; that iron structures, where paint is poor, be repainted; that the wooden structures be carefully watched, and the decayed timber in them be replaced. That inside guard rails be laid and maintained on all bridge structures.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that it would comply with the recommendations.

NEW YORK AND OTTAWA RAILROAD.

(Inspected November 4, 1899.)

The portion of the New York and Ottawa Railroad in the State of New York comprises what was formerly the Northern New York Railroad, from Tupper Lake to Moira, 53.89 miles, and a new extension which was opened for traffic in September of this year, from Moira to the International boundary in the St. Lawrence river, 14.63 miles, making a total length of road 68.51 miles. The road is single track and standard gauge. About 51 miles of the track, on the old road, are laid with 56-pound steel rail; the balance of the old road and all the new are laid with 65-pound steel rail. Thirty-nine miles of the 56-pound rail is connected by angle plates, 24 inches in length, with 4 bolts, and the remaining 12 miles of 56-pound by fish plates, 24 inches in length, with 4 bolts. The 65-pound rail is connected by angle plates, 42 inches in length, with 6 bolts. The ties (about three-fourths hemlock and one-fourth cedar) are from 6 x 6 to 7 x 9 inches and 8 feet in length; 16 are laid to a 30-foot rail. The cuts on the old road are generally narrow and the ditches poor. In many cuts there are no ditches. The embankments are also narrow and many not up to grade. The new portion of the road was better constructed. The cuts and embankments are of fair width and slope and the ditches are in very good condition. No cuts are sub-drained. The ties on the old road are very badly decayed, and at least 25 per cent. of them are too rotten to afford much support to rail, and should be immediately renewed. On the new road the ties are all good. All ties are well spaced and full spiked. Tie plates are not used. The 56-pound rail is in good condition for the light rolling stock and moderate speed of the trains. The 65-pound rail is new and in good condition. The angle plates are all good. The fish plates are much worn and should be replaced by angle plates; all are full bolted and few loose bolts were discovered. The

joints, line and surfacing are only medium. The curves are somewhat irregular in line, but are fairly elevated for the rate of speed maintained. The curves are very frequent and sharp, much more than was necessary or economical in the construction, and it is the expressed intention of the present owners of the road to practically rebuild the old road, changing both the alignment and grade in a great many places, thereby reducing both curvature and grades. The maximum curve is 13 degrees, located south of St. Regis Falls. The maximum grade is 148 feet per mile, for about $1\frac{1}{2}$ miles, in the vicinity of Spring Cove. The switches are all split point, with the exception of two or three throw stub switches in Moira yard and one single throw stub switch, not yet changed out, on the old road. Both rigid and automatic switch stands are used. They all have well-painted targets. The frogs are principally rigid. Frogs and guard rails are not blocked. The south end of the road is ballasted with sand in medium quantity. On the north end there is little or no ballast used. The Ogdensburg and Lake Champlain Railroad and sidings are crossed at grade by a series of cross-over switches, west of Moira. The crossing is protected by ball signals on a long pole, which can be seen a long distance. All N. Y. and O. trains come to a full stop before crossing. O. and L. C. trains do not stop when the signal is in their favor. The United States and Canada Branch of the Grand Trunk Railway is crossed at grade at Helena. The crossing is protected by interlocking with home and distant signals on both roads, and derails in all tracks. The fences on the old road are poor and, in most places, lacking. The road runs in the wilderness a large portion of its length where stock is not kept and fences are not needed. The new part of the road is well fenced with woven wire. Large trees on the right of way have been cut, but much brush and small trees yet remain on the old road. On the new road the right of way is thoroughly cleared. The yards and siding are only in medium to fair condition. There is but one iron bridge on the old road. It is in good condition and on good masonry. There are three spans of wooden Howe truss. One of these, near Brandon, is a 40-foot deck span on timber and stone cribs, and is in good condition; but the trestle approaches are very rotten and should be rebuilt or filled at once (trestles are about 30 feet in height). The other two spans, 80 feet each, are near St. Regis Falls and are very rotten. These spans are now supported on pile bents, which makes them secure for the present. There are about 100 other openings to grade. Several of them are long and low pile or frame trestles and the balance open culverts and cattle passes. Very few of them have masonry, and for abutments timber cribs,

filled with stone, timber docking, frame and pile bents planked behind to support the embankments, and in some cases only bank gills are used. Several trestles have settled and extra blocking has been used either under or on top of the stringers, and in some places a few poor stringers were discovered and shown the superintendent of the road, who promised to make the necessary renewals. Open culverts and cattle passes are generally on wooden cribs. Many of the cribs are considerably decayed and will require renewal in the near future. A few were shown to the superintendent which should receive attention at once. All bridges, trestles and culvert structures have good floors, well maintained. The ties are 6 x 8 inches and 8 feet in length and are spaced 14 inches center to center. They are notched on the stringers. Guard timbers are 6 x 8 inches. They are notched on the ties and securely bolted to them. Nearly all the timber used in the structures is Norway pine and native pine. All bridges, trestles, open culverts and cattle passes in the new road are in first-class condition. The bridge across the St. Lawrence river is not yet completed. The highway crossings are well planked and the approaches are properly graded. The crossing signs are of the figure "4" and "X" forms. They are new, well painted and letters are of proper size. A few have yet to be erected, but all crossings are to be supplied promptly. Warning signals are in place where overhead obstructions are less than 20 feet above the track. The cattle guards are of the wooden slat pattern. About half the crossings have cattle guards, all new, and the balance are to be furnished. Mile posts have been erected this season; also whistle posts, which are located at the prescribed distance from all highway crossings. The sections are 7½ miles in length and a foreman and 6 trackmen are employed upon each. Each gang is furnished with flags, lanterns and torpedoes. No regular track-walker is employed.

The stations are in fair condition. There is a sign upon each giving its name. They are not generally furnished with drinking water or protection against fire. Time tables are posted in waiting rooms. The agents can check baggage to all points to which they sell tickets. The station grounds are generally limited, and not much attention is given to their care. Agents and helpers wear a uniform and badge indicating their employment. The combination cars, which are used in all trains, are not first class, but were found clean and in good sanitary condition, with drinking water in each. They are furnished with the required tools, which are located in the mail department, but are to be removed to the center of the passenger compartment. The cars are equipped with Miller hooks and air brakes; are heated by

steam and lighted by oil lamps. All trainmen are uniformed. Four new passenger coaches, properly equipped, are stored in the company's shop at Santa Clara, ready for next season's use. Only a few of the freight cars are equipped with automatic couplers and air brakes, but a supply of materials for fitting them up have been received and the work is to be hurried. Ladders are maintained upon the sides of the cars. Car repairers, when at work, are protected by a blue flag.

During the past year $7\frac{1}{2}$ miles of right of way have been thoroughly cleared. Six openings have had structures entirely renewed; twelve have been extensively repaired; twenty-three have received new floors; twelve have been filled and wooden box culverts substituted; twenty-three have been filled and the streams diverted; three box culverts have been renewed; 18,000 new cross-ties have been laid in repairs. The station at Dickinson Center has been rebuilt, and repairs made to the station buildings at Blue Pond, Santa Clara and St. Regis Falls. Two new dwellings for section men have been built at Blue Pond and one at Brandon. The car shop and machine shop at Santa Clara have received new roofs and the freight building at Dickinson Center has been repaired. Two new tool houses have been built and others repaired; also lighter repairs to many other buildings. The stations at Blue Pond, Brandon, Santa Clara, St. Regis Falls and Dickinson Center have been painted; also tool houses and other buildings at many places. All new track signs have been erected. Four miles of new woven wire fence have been built on the old road. The telegraph line has been extensively repaired and many other things done to improve the property. While a great deal has been accomplished, there is still much work to do before the road can be considered in good condition.

Recommendations.—That all narrow cuts and embankments be widened and proper ditches made; that at least 25 per cent. of the ties be promptly renewed; that the worn fish plates be changed out and angle plates substituted; that all loose track bolts be made tight; that the bridges, trestles, open culverts and cattle passes receive prompt attention and all decayed timber renewed, and that those requiring entire renewal be rebuilt quickly; that the balance of the fences through the grazing territory be put in proper repair; that the balance of the cattle guards be put in and maintained, and that ladders be maintained on the ends of freight cars and grab irons on the sides.

A copy of this report was transmitted to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company replied stating that the recommendations would be complied with.

NEW YORK AND PENNSYLVANIA RAILROAD.

(Inspected June 15 and 16, 1899.)

The portion of the New York and Pennsylvania Railroad in this State extends from Canisteo, on the line of the Erie Railroad, to the Pennsylvania State line, a distance of 27.10 miles.

The road is single track, standard gauge and laid with 60-pound steel rail, connected by angle plates, 19 and 24 inches in length, with 4 bolts. The ties are 6 x 6 and 6 x 8 inches and 8 feet in length, all hemlock, and 16 are laid to a 30-foot rail. Many of the cuts are narrow and have steep slopes, with loose rocks on sides, liable to fall on track, which should be removed. The ditches are poor and in some cuts lacking. The embankments are of fair width and slopes; no sub-drainage in use. The ties are in good condition and all sound, having been in track but three years; they are evenly spaced and full spiked. The rail in main track and sidings is in good condition, excepting from Canisteo to Erie Junction—one-half mile, which is much worn. The angle plates are full bolted and nuts screwed up tight. The joints, line and surfacing are fair, and all curves appear to have proper elevation, for the speed of trains maintained. The track has very little ballast and it is difficult to maintain good surface, especially in narrow cuts where there are no ditches. Weeds and grass are growing upon the tracks in many places. The switches are all point and in good condition. Switch-stands are rigid; they all have targets and are well painted. Spring rail frogs are used almost entirely. Guard rails and frogs are not blocked. There are a few shims in track. No fences are maintained, excepting in a few places for short distances. Trees and brush have in most places been cut and removed. A few standing trees should be cut. The condition of yards and sidings is only medium.

A portion of the bridges, trestles and open culverts are not in a satisfactory condition. The wooden Howe truss, 110-foot span, over the Canisteo river, near the junction with the Erie Railroad, is very rotten, and to strengthen it there have been bents placed under the lower chord of the bridge and the track, for a distance from each end of the bridge, reducing the clear span to about 64 feet, and spanning this distance with two trussed stringers, each stringer consisting of two pieces common pine 7 x 12 inches, and two pieces 6 x 13 inches, bolted together and supported in center and at one point between the center and each end, by three 2-inch rods, which pass through iron plates at each end of stringers and are depressed about four feet below the stringer at the center, the space between the rods and stringers at supporting points being cribbed with plank; the stringers, so constructed, serve to support the track when no weight is upon it, but as soon as a train or

engine comes upon it the stringers immediately deflect until they reach bearing upon the floor-beams of the Howe truss bridge, transferring the load to that rotten structure not fit to sustain it, and should that fail, the trussed stringers would be of little use. The conditions at this bridge are such that your Inspector considers it dangerous to run trains upon the structure. A new bridge should be put in as promptly as possible, and, pending its erection, the balance of present bridge should be placed upon bents to insure safety. The timber in all other bridges and trestles is hemlock and in sound condition. There are seven different places where one or more trussed stringer spans are used; they are from 29 to 30 feet long, and each stringer is composed of three pieces 6 x 16 inches, bolted together and supported in the center by two 1½-inch rods, depressed in center 12 to 18 inches below bottom of stringers, with ties cribbed on the top of the rods to support the stringers. This is poor construction and evidently weak. Another stringer and another truss rod should be added; also, a suitable and substantial way of supporting the stringers in the center should be devised and used instead of the cribbing of ties, which is not suitable and is liable to get out of place. Other trestle and open culvert spans of from 10 to 16 feet have stringers composed of three pieces, 4 x 16 inches, under each rail. Another piece should be added to strengthen all those where the span is more than 10 feet. At a few places the bents which are planked behind and used to support embankments, in place of abutments, have been forced forward by the weight and pressure of the filling, and should be braced apart. The ties on bridges, trestles and open culverts, are 6 x 8 inches and 12 feet in length. Guard timbers 6 x 8 inches, notched and bolted about every fourth tie. There are no cattle guards.

The stations are neat and clean and are provided with drinking water. Time tables are posted. Agents can furnish checks to all points where they sell tickets. The station grounds are given but little attention. Platforms are plank, and some repairs are needed. Agents do not all wear uniforms. There are no mile posts and no whistle posts.

The equipment consists of 3 locomotives, the heaviest weighing about 46 tons; 3 combination cars and 23 flats. The combination cars are in very fair condition, with drinking water in each; they are provided with tools properly located, are heated by stoves and lighted by oil lamps. The highway crossings are well planked and approaches are in fair condition. The crossing signs in use are straight boards, with 6-inch letters. About half the crossings have no signs. The company has no telegraph lines and uses telephone instead.

Recommendations.—That narrow cuts be widened and proper ditches made; that all loose stone be removed from slopes of cuts; that mile and whistle posts be erected; that all missing crossing signs be supplied and those now erected be made legal as to size of letters; that the bridge over the Canisteo river be immediately made safe by placing bents under it, and that a new bridge be provided for that place as soon as possible; that all the trussed stringer bridges be strengthened by addition of another timber and rod to each stringer and a suitable support for centers of such stringers be provided; that an additional timber be added to all stringers, where clear span exceeds 10 feet.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board, especially that in reference to the bridge over the Canisteo River and other bridges and openings. The company informed the Board that it was about to put false work under the bridge, over the Canisteo River, and that "A new bridge is to be constructed as soon as possible to do so." The company also informed the Board that: "There will be no lack of disposition on their part to comply with the direction of the Board."

OGDENSBURGH AND LAKE CHAMPLAIN RAILROAD.

(Inspected July 6 and 7, 1899.)

The Ogdensburgh and Lake Champlain Railroad extends from Ogdensburgh to Rouses Point, a distance of 118.00 miles.

The road is single track, standard gauge, and laid with steel rail 56, 60, 72 and 80 pounds to the yard. The 56 and 60 pound rail are connected by fish plates 20 inches in length, with 4 bolts; the 72 pound rail is connected by 20-inch angle plates, with 4 bolts, and the 80-pound rail is connected by 32-inch angle plates, with six bolts. The ties are about one-quarter hemlock, one-quarter tamarack and one-half cedar, 6 x 8 inches and 8 feet in length, and 17 are laid to a 30-foot rail. A large part of the road was graded for double track, and the cuts and fills, as a rule, are exceptionally wide, with proper slopes. The roadway is well ditched. No sub-drainage in use. The ties in main track, sidings and yards are alike in poor condition; about 25 per cent. of them are badly decayed and require prompt renewal; about 47,000 were renewed in 1898; nearly double that number now in track should be replaced this season. All ties are well spaced and full spiked; no tie plates are used and no rail braces excepting at turnouts and on the Rouses Point trestle bridge. The 56 and 60 pound rail is much worn, and good joints, line and surface cannot be maintained where it is; the 72-pound rail is in good condition, and the 80-pound rail in first-class condition. About 32 miles of the 80-pound rail has been laid within the past year

and a large quantity is to be put down this season, replacing the 56 and 60 pound rail. The joints, line and surface of the 72 and 80 pound rails are good. All angle and fish plates are full bolted and nuts are screwed up tight. All curves have the proper elevation for rate of speed trains run. The switches are all point where 72 and 80 pound rails are used; there are some stub switches in the lighter rail. Point switches either have automatic stands or a spring on the connecting rod, making the switch automatic. All switch-stands have targets and are well painted. Both automatic and rigid frogs are used. Frogs and guard-rails are not blocked. The track is ballasted with gravel and sand in moderate quantity; more ballast is needed. A few shims were found in use.

The following railroads are crossed at grade: Rome, Watertown and Ogdensburgh at Norwood; movement of trains is governed by a tilting signal; all trains stop before crossing. St. Lawrence and Adirondack, and Mohawk and Malone at Malone Junction; movement of trains is governed by ball signals; all trains stop before crossing. Delaware and Hudson Company at Mooers Junction; movement of trains is governed by ball signals; all trains stop before crossing. Delaware and Hudson Company at Rouses Point; movement of trains is governed by ball signals; all trains stop before crossing.

The fences on right of way lines are in poor condition generally, and in places where adjoining fields are not used for grazing, no fences are maintained. All trees, brush and weeds are cut and the right of way is free from rubbish. The condition of yards is clean and free from scrap or rubbish. The highway crossings are generally well planked and properly graded. Crossing signs are nearly all long boards extending across the traveled road; a few are diamond-shaped or finger board design; all have legal sized letters and are well painted. There are no overhead obstructions less than 20 feet above the rail. Cattle guards are of wooden slat pattern; some are missing. The mile posts are in good condition. Whistle posts are erected at proper distance from all crossings.

Bridges, trestles, culverts and cattle passes are in good condition generally. Nearly all the wooden bridges have been replaced with iron or steel, and the few remaining are to be in the near future. Nos. 4, 5, 8, 13, 14, 19, 24, 26, 28, 41, 44, 45, 46, 47, 48, 51, 52, 59, 62, 63, 67, 68, 69, 71, 72, 73, 76, 77, 78, 81, 82, 83, 86, 87, 88, 90, 92, and 95, from 14 to 136 foot spans, wooden bridges, have been replaced with I beams, plate girders or riveted lattice since last inspection; also a large proportion of the smaller openings have received new stringers and floors. The

pile trestle bridge 2,100 feet in length, at Rouses Point, is being extensively repaired.

The sections are $5\frac{1}{2}$ miles in length, and a foreman and 6 men are employed upon each. The stations are clean and in good sanitary condition; some of them are showing the effects of age, and a portion of them need painting. A sign is upon each giving its name. Drinking water is provided excepting at a few of the small ones. A time table of the road is posted. Agents can check baggage to all points to which they sell tickets. Station grounds are well kept; the platforms are plank and in good condition. Station employees wear uniforms and badges. The coaches are in good condition and well cleaned; drinking water is provided in each. They are furnished with tools located in center and ends of cars. They are equipped with automatic couplers and air brakes, heated by steam and lighted with oil lamps. All trainmen are uniformed. Freight cars are provided with grab-irons and ladders—not all properly located, but being changed. A portion of them have been equipped with automatic couplers and air brakes; the balance are to be so equipped as fast as possible. Car repairers use red flag to protect them when at work.

Recommendations.—That decayed ties be renewed as fast as possible; that the badly worn rail be changed out; that the condition of fences and cattle guards be improved.

A copy of this report was sent to the company, with a letter making the recommendations of the Inspector the recommendations of this Board.

OTIS ELEVATING RAILWAY.

(Inspected August 16 and 18, 1899.)

The Otis Elevating Railway is an inclined plane, extending from Otis Junction, on the line of the Catskill Mountain Railway, to Otis Summit, a distance of 1.34 miles, and is operated by stationary engines and cables. The track is laid with three rails, each 3-foot gauge. A car is attached to each end of the cables and one car descends as the other ascends, meeting half way and passing on a piece of double track constructed at that point for this purpose. The rail is 35-pound steel, connected by angle plates 18 inches in length with 4 bolts. The ties are $5\frac{1}{2} \times 5\frac{1}{2}$ inches, 9 feet in length and 15 are laid to a 30-foot rail. The ties are laid upon stringers, $6\frac{1}{2} \times 12$ inches, one under each rail; the stringers rest upon mud sills and are bolted to them. Every second tie is bolted to the stringers. Guard timbers, $5\frac{1}{2} \times 8$ inches (widest way up) are placed $4\frac{1}{2}$ inches inside of each of

the outer rails and are bolted to every tie. There are three timber trestles in the road; the one near the foot of plane is 1,776 feet in length, with extreme height of 60 feet; the center one is 286 feet in length, with extreme height of 20 feet; the one near head of the plane is 480 feet in length, with extreme height of 62 feet. The bents are spaced 16 feet from center to center. The sills rest upon masonry piers and are 10 x 10 inches. The upright posts are 10 x 10 inches; the batter posts 8 x 10 inches, the caps 10 x 10 inches. The "X" braces are 3 x 8 inches; longitudinal braces 4 x 8 inches. The stringers, two under each rail, are 6 x 14 inches, and rest upon corbals 3 feet in length. The stringers are in double lengths, causing but one joint to each bent. The ties on trestles are of same dimensions as those used in balance of the track, excepting that each third one is 16 feet in length. A plank walk, with iron railing, is laid upon the long ties each side of the track. The same system of guard timbers and bolting is maintained upon the structures as upon the other portions of the track. Some timbers in the trestles, especially sills and stringers, are getting somewhat decayed, and while none so much so as to appear unsafe and are undoubtedly all right for this season, quite an amount of renewals will be necessary before the road is put in operation next year. A watchman is employed who goes over the road daily to examine the structures, track, etc. Two Roebling cables, 1½ inches in diameter, are attached to each car; cables are supported by idlers spaced about 30 feet apart. The power station is equipped with two Hamilton Corliss engines, with cylinders 12 x 30 inches; two upright boilers, 19 feet high, 4 feet 8-inch shell, fire box same diameter as shell, shell enlarged at fire box end; 152 flues, 2½ inches in diameter, in each boiler. Each boiler has a 4-inch Crosby pop valve set at 120 pounds. Engines have two 8-foot brake wheels on main shaft with circumferential strap brake, lined with wood fibre, operated by air furnished by a Westinghouse air pump. The cable is wound three times around two 12-foot drums; drums have differential steel rings slip fit on drums, held in place by retaining ring; work is done by friction of rings on drum. There is a circumferential brake on one drum operated by air system. Engines controlled by governor, also a speed recorded in operating room, with electric bell. There is a grip on each car with automatic governor; also an arrangement to pull on grip by carman in case of an emergency. Speed of car is 8 miles per hour. The railway has been run eight seasons of four months each. The boilers have been used 32 months, but as they are used alternately, the actual time for each boiler is but 16 months. The boilers, engines and all machinery are in excellent condition.

Recommendations.—That the trestles be very carefully watched for any indications of weakening timber, and that all partially decayed timber be replaced before the road is opened next season.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company notified the Board that the recommendations would be complied with.

POUGHKEEPSIE AND EASTERN RAILROAD.

(Inspected August 31 and September 1, 1899.)

The Poughkeepsie and Eastern Railroad extends from Poughkeepsie to Stissing Junction, and from Pine Plains Junction to Boston Corners on the line of the Harlem Branch of the New York Central and Hudson River Railroad, a total distance of 34.99 miles; its trains run upon the tracks of the Newburgh, Dutchess and Connecticut Railroad between Stissing Junction and Pine Plains Junction, a distance of 4.80 miles. The road is single track, standard gauge, and laid with 65 and 70 pound rail. The 65-pound rail is connected by angle plates 22 inches in length with four bolts, and the 70-pound rail by angle plates 22 inches in length with four bolts, and angle plates 36 inches in length with 6 bolts. The ties (three-fourths yellow pine and balance chestnut), are 6 x 8 inches and 8 feet in length; 16 are laid to a 30-foot rail. The earth cuts are somewhat narrow and the slopes have washed, filling the ditches in many places. The rock cuts are not of sufficient width to allow for proper ditching. The embankments are of fair width and proper slope. The roadway is poorly ditched. The ties are considerably decayed and very many need renewing. About 4,000 new ties have been put in this season, and at least 15,000 more will be required to replace those now in track that are unfit to remain. No tie plates are in use. The rail (nearly all 70-pound steel) is somewhat flattened at the joints, and is in only medium condition. The angle plates are very good; very few track bolts are missing, but many have thread worn so that the nuts work loose. The joints, lines and surfacing are medium. Curves are fairly well lined and elevation is sufficient for the rate of speed of trains maintained. The switches are about half split point and half stub; switch stands are rigid. Switch targets are well painted. Both spring rail and rigid frogs are used. Frogs and guard rails are not blocked. The track is ballasted with gravel and cinders in very limited quantity. No shims were found in use. No railroads are crossed at grade. Tracks connect with the New York Central

and Hudson River and the Central New England Railroads at Poughkeepsie, with the Newburgh, Dutchess and Connecticut Railroad at Stissing Junction and Pine Plains Junction, and with the Harlem Branch of the New York Central and Hudson River Railroad at Boston Corners. The right of way is fenced. Fences are principally of wire and are very well maintained. All the trees are cut; brush, grass and weeds have not been cut this season, but the work of cutting has commenced, and is to be continued until all is removed. The yards and sidings are in fair condition. The highway crossings are properly graded and planking is good. The triangular form of crossing sign is used. All crossings have signs; they are in good condition and well painted. There are several overhead bridges less than 20 feet above the track at which no warning signals are maintained. There are no cattle guards. Whistle posts, in good condition, are at the prescribed distance from all highway crossings. Mile posts are erected on about one-third of the road and balance are ready to be placed. The masonry where constructed is in good condition. There are no truss or girder bridges; wherever spans are too long for wooden stringers, either pile or frame bents are erected and a trestle structure used. There are many trestles in the road, the most extensive being about 750 feet in length, with extreme height of 62 feet, located near Boston Corners. Another near same location is approximately 500 feet long and 24 feet in height. Those two trestles are in very fair condition; but two or three sills in each should be renewed; a few other timbers show some sap rot, but there is nothing in either structure approaching a dangerous condition; they are well designed, well constructed and have sufficient material. The floor system is good, ties sound and a guard timber, 6 x 8 inches on each end of the ties, notched on them and bolted, about every fourth tie, extends the entire length. Other trestles, especially three near Pine Plains and one near Sall Point, are in bad condition throughout and should be rebuilt at once, and until this is done trains should run over them at very slow speed. A portion of them have plank ties and most of them have no guard timbers. All defective structures, also poor or weak portions of them, were pointed out to the superintendent and the roadmaster by your inspector, and recommendations made as to proper repairs, strengthening or renewals which they advised would be attended to as promptly as possible. No water for use in case of fire was found upon any of the trestles. The sections average about nine miles in length; a foreman and five trackmen are employed upon each. This is not a sufficient force to properly care for the road and get it in fit condition for coming winter. All section gangs are provided with flags, lanterns and torpedoes. A small car-

penter force is also employed, and that should also be largely increased to do the necessary work repairing and renewing the trestle structures. The stations are in fair condition; clean and neat. Time table of the road is posted in waiting room. No drinking water is provided, excepting at Poughkeepsie. A sign is upon each station, giving its name. Agents can check baggage to all points to which they sell tickets. Station platforms are of plank and in fair condition. Station grounds are clean. There is no protection against fire. The agent and helpers wear uniform, cap and badge. The coaches are in very fair condition, with drinking water in each. Tools are properly located in the centers of cars. The cars are equipped with automatic couplers and air brakes; are heated by stoves and lighted with oil lamps. Some open cars are used; they have automatic couplers and air brakes. All passenger trainmen are uniformed. The freight equipment owned by the company is not in use. Car repairers when at work are protected by a blue flag.

Recommendations.—That the ditches be cleaned and material washed in from the slopes removed. That all decayed ties be taken out and new ones put in their place. That missing track bolts and those with worn threads be replaced. That split point switches be substituted for the stub switches. That cattle guards be put in and maintained at all highways. That warning signals be placed 200 feet each side of all overhead obstructions, less than 20 feet above track. That all defective trestles be properly repaired or rebuilt, as quickly as possible, and that until this is done they be carefully watched and only very slow speed of trains over them allowed. That proper floor systems with timber, ties and guard timbers not less than 6 x 8 inches notched on the ties and securely bolted to each third or fourth tie, be maintained upon all trestles, open culverts and cattle passes. Also that inside guard rails be laid and maintained on all such structures. That both section and carpenter forces be increased sufficiently to get the road in greatly improved condition before winter.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board, particularly with respect to the recommendation: "that all defective trestles be properly repaired or rebuilt, as quickly as possible, and that until this is done they be carefully watched and only very slow speed of trains over them allowed." The company replied, stating that: "The recommendations of the inspector will be carefully complied with and carried out; especially with regard to the repairs of trestles and bridges, all of which I expect to go over between now and January 1st."

PORT JERVIS, MONTICELLO AND NEW YORK RAILROAD.

(Inspected June 26, 1899.)

The main line of the Port Jervis, Monticello and New York Railroad extends from the line of the Erie Railroad at Port Jervis, to Monticello, a distance of 23.75 miles.

The road is single track, standard gauge and laid with steel rail 56 to 68 pounds to the yard, connected by angle plates, $21\frac{1}{2}$ inches in length, with 4 bolts. The ties in main track—about one-third oak and two-thirds chestnut—are 6 x 6 and 6 x 8 inches and 8 feet in length, and 17 are laid to a 30-foot rail. Chestnut ties are generally used in sidings. The cuts are taken out to fair width and slopes, and, with few exceptions, very fair ditches are provided. No sub-drainage is in use. The ties are in fair condition on the main portions of the line, especially on the grades and curves. About 10,000 ties have been renewed this season, and 10,000 more are promised; which will put the road in good condition as far as ties are concerned. All ties are fairly well spaced and full spiked. The rail is in medium condition, some worn, especially at the joints. All joints are full bolted and nuts generally screwed up tight; a few are loose and should be cared for. The line and surface are fair, and curves are properly elevated for the speed of trains maintained (about 25 miles per hour). The track is ballasted lightly with gravel and cinders. Both point and stub switches are used. Switch-stands are mostly rigid; some of them are ground levers and without targets; a few automatic stands were observed; nearly all are newly painted and the balance are being painted. The frogs are rigid. Guard rails and frogs are not blocked. Switches and sidings are in fair condition. The maximum grade is about 160 feet per mile for a short distance, but grade is very steep for a large portion of entire road. The curves are generally light, the maximum being about 6 degrees. The general alignment is good, there being a large percentage of straight line.

The fences are poor. Much of the road is on steep side of mountain, through scrub timber, where no stock is at large, and there no fence has been maintained. Trees, brush and weeds have been cut on nearly all of the right of way; about 12 miles of the line have been cleared of brush and small trees this season; the brush and timber have not all been removed, but are to be burned as soon as weather conditions are such that it can be done with safety. The condition of yards has been somewhat improved, but there is considerable more work to be done before they are in really, good condition.

The bridges and open culverts are generally in good condition; a few repairs to floors are needed; some iron girders and I beams should be painted, to prevent rusting. Masonry is very fair and

nearly all bridges and culverts have masonry abutments. Bridge ties are 6 x 6, 6 x 7, 6 x 8 and 8 x 8 inches, and 8 and 10 feet in length; they are spaced about 16 inches center to center, and have guard timbers 6 x 6, 6 x 8 and 8 x 8 inches, notched, and bolted about every third tie. Some bridge floors are oak, some are pine and some chestnut. There appears to have been no standard followed as to sizes of timber or manner of constructing bridge floors. Bridge ties or guard timbers should not be less than 6 x 8 inches. There are no cattle guards in use. The highways are fairly well planked and approaches are, as a rule, properly graded. Diamond-shaped crossing signs, with 9-inch letters, are properly placed at all highways. An electric street railroad crosses the track on a street in Port Jervis; that and another street crossing in that city are protected by electric bells. There are no whistle posts or mile posts. The length of each section is 8 miles, and a foreman and eight men are employed upon each.

This company uses the Erie station at Port Jervis; at Monticello it has a very neat and tasty station, newly painted and in excellent condition throughout. At most other stations no agents are employed and buildings are not in good condition. Some of them are being painted and signs of improvement are shown. Agents, where maintained, wear uniform, and all trainmen are uniformed and wear proper badges. Agents can check baggage to all points to which they sell tickets. The coaches are in good condition and drinking water is in each. They are furnished with tools, properly located in the center of the car. They have air brakes, are warmed by heaters and lighted with oil lamps. The company has no box cars in use. A few flat cars are used in repair service; they have pin and link couplers.

Recommendations.—That all switch-stands be provided with targets; that all metal structures be thoroughly painted; that necessary repairs be made to bridge floors, and that new ties and guard rails be not less than 6 x 8 inches; that the additional necessary tie renewals be made as rapidly as possible where most needed; that whistle and mile posts be erected at proper places.

Summitville Branch.

(Inspected June 26, 1899.)

The Summitville branch of the Port Jervis, Monticello and New York Railroad extends from Huguenot Junction to Summitville, on the line of the New York, Ontario and Western Railroad, a distance of 17.30 miles. The road is single track, standard gauge, and laid with steel rail 56 pounds to the yard, connected by angle plates, 21½ inches in length, with 4 bolts. The ties are about

two-thirds chestnut and one-third oak, 6 x 6 and 6 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The cuts and embankments are narrow in places, but with fair slopes. Ditches are poor. No sub-drainage. The ties are in very bad condition; at least 50 per cent. of them are very rotten, and not less than 60 per cent. should be renewed this season. About 1,500 have already been renewed, and about 25,000 more are needed. Many new ones should be put in quickly, and only very slow speed maintained until this is done. All ties are full spiked and the spacing is good. The condition of the rail is good. All joints are full bolted and the nuts are screwed up tight. The line and surface are irregular, largely owing to the poor condition of the ties; the curves are properly elevated for the slow rate of speed maintained. About half the switches are point and half stub. Switch-stands are rigid; some have no targets, and those with targets are devoid of paint. The frogs are rigid. Frogs and guard rails are not blocked. Switches and sidings are not in good condition. Switch-ties and cross-ties are in about same condition as main line ties. The general alignment is good; there are few curves and they are generally light, the sharpest being about 3 degrees. The grades are also light, the steepest being about 37 feet per mile for short distances, while the greater part of the track is practically level grade. The fences are poor, and in many places entirely lacking. Trees on right of way have been cut, and brush and rubbish generally removed.

The bridges, trestles and open culverts are in very poor condition; one timber trestle about 950 feet in length and 10 feet in height, and another about 700 feet in length and 10 feet in height, are especially bad; nearly all the timber in them is partially decayed; some of the sills and caps so much so that they begin to crush. Temporary repairs are being made, with intention of filling them this season. Trains run very slowly over these structures. The filling should not be delayed; temporary repairs should be hurried, and the trestles carefully watched, while being repaired and filled. There are 10 spans of "A" truss bridge on this line, and they are all in poor condition, being badly decayed. The intention is to place bents under them until plate girders can be obtained to put in their places. The stringers to the larger part of the open culverts are also old and somewhat decayed, and want renewing at once; also the ties and guard timbers on many of them. Prompt attention should be given all the structures, or the running of trains discontinued. The few iron bridges are in fair condition, excepting that most of them lack paint and are rusting. Bridge floors are same construction and materials as on the main line. There are no cattle guards in use. Highway crossings are in fair condition. Crossing signs are diamond shaped, with 9-inch

letters. There are no whistle or mile posts. Sections are 9 miles in length, and one foreman and eight men are employed on each. The stations are small and agents are not employed excepting at terminal and one other place. The buildings are in poor condition and grounds neglected.

Recommendations.—That all switch-stands be provided with targets and thoroughly painted; that all iron bridges be cleaned and painted; that mile and whistle posts be erected at proper places; that (1) extensive tie renewals be made promptly; that (2) the two long trestles be quickly repaired and filled; that (3) the "A" truss spans be placed on bents at once, and new bridges put in their place; that (4) the poor stringers, ties and guard timbers of open culverts be renewed quickly, and that until the condition of the road in these last four respects is greatly improved the rate of speed shall not exceed 8 miles per hour; and that, unless the condition is further materially improved within 60 days, the running of trains be discontinued.

ALBANY, N. Y., *September 2, 1899.*

To the Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—As directed by your Honorable Board, I made a second examination of the Summitville Branch of the Port Jervis, Monticello and New York Railroad, on August 28, 1899, to ascertain what had been done toward making the improvements suggested in report of inspection made June 26, 1899, and respectfully submit the following report:

Since the inspection of the Summitville Branch of the Port Jervis, Monticello and New York Railroad, made June 26, 1899, there has been 4,297 new ties put in, about 1,000 are distributed and 3,300 are on the way from Weehawken, and will be put in track as fast as possible when they arrive. Ten thousand more are arranged for, which are expected to be delivered by September 14. Five miles of the track has been relined and surfaced and some improvement made to the general condition of track on the other 12 miles. Several of the longer "A" truss bridges have had one bent placed under the center. There should be two additional bents under each, so as to carry the trains independent of the decayed trusses. The remaining "A" truss bridges should also be placed on bents at once. Slight repairs have been made to the trestles and a little filling done. Also some improvements have been made to stringers and floors of open culverts. Repairs have been made to stations and station platforms and a little painting done. The track force has been largely increased, and an extra gang, with work train, distributed

about 1,000 cubic yards of cinder ballast, which has been put under the ties where the track has been retied, lined and surfaced. The management is evidently trying to carry out the recommendations of the Board, and are making fair progress. There is a large amount of work to be done and the time has been rather short. Your inspector would, therefore, recommend that an additional sixty days be allowed in which to make the improvements recommended in report of inspection made June 26, 1899.

Respectfully submitted,
J. D. SHULTZ,
Inspector.

ALBANY, N. Y., November 29, 1899.

To the Board of Railroad Commissioners:

GENTLEMEN.—As directed by your Honorable Board, I have made another examination of the Summitville Branch of the Port Jervis, Monticello and New York Railroad, on November 24, 1899, and respectfully submit the following report:

Since the regular inspection of the Summitville Branch of the Port Jervis, Monticello and New York Railroad, made June 26, 1899, there have been, approximately, 18,000 cross-ties renewed, the two long trestles, and also three smaller ones, have been filled, and three others entirely renewed. The three poorer of the "A" truss bridges have been made secure by putting bents under them; a portion of the others have been somewhat improved, and the balance are short spans and sufficiently strong to carry the trains until the new girder bridges which are ordered, and are to be delivered February next, can be erected in their places. The entire road, with the exception of about one and one-half miles, on which a large force is now at work, has been resurfaced, lined and gauged, and nearly all of it reballasted.

The road is now in safe condition for the speed at which the company desires to schedule its trains, namely, twenty miles per hour. I would, however, recommend that until the new girder bridges are in the speed be reduced to ten miles per hour crossing the "A" truss and trussed stringer bridges.

Respectfully submitted,
J. D. SHULTZ,
Inspector.

Copies of these reports were sent to the company, with letters making the recommendations of the inspector the recommendations of this Board. Considerable correspondence ensued, the company assuring the Board that it was using its best endeavors to put both the main line and the Summitville branch in proper physical condition.

ROCHESTER AND LAKE ONTARIO RAILWAY.

(Lessee Rochester and Irondequoit.)

(Inspected May 2, 1899.)

The Rochester and Lake Ontario Railway extends from Rochester to Sea Breeze, a distance of 6.046 miles. The road is single track, standard gauge, and laid with: $\frac{1}{4}$ mile, 40-pound iron rail; $\frac{1}{4}$ mile, 40-pound steel rail; $\frac{3}{4}$ mile, 50-pound steel rail, and the balance with 60-pound steel rail. The iron rail and lightest steel rail is connected by fish plates with 4 bolts, and the heavier steel rails by angle plates with 4 bolts. The ties are nearly all cedar, 8 feet long, 6 inches thick, with face varying from 3 inches to 8 inches, the larger proportion being what would be considered as second-class ties. Where the track is laid upon the street in the city of Rochester, 14 are laid to a 30-foot rail; outside the city they vary from 15 to 20 to a 30-foot rail. About half the line of the road is within the boundaries of the highway, and the grade is made to conform as closely as possible to the surface and line of the traveled road, thus necessitating very frequent changes in grade and very sharp curves. After leaving the highway the alignment is fair and the grades are reasonably regular. The steepest grade for any distance is at the Sea Breeze end of the road and is approximately 60 feet per mile for about one mile. There are three extremely sharp curves made to bring the road within the highway boundaries at abrupt turns, the sharpest curve being about 45 degrees at the center and flattened toward the ends. The cuts and embankments are of fair width and proper slope. Very little ditching is done but the soil is gravelly, and as it is only a summer road and has very few and short cuts this is not important. The ties are not in good condition; at least 20 per cent. should be renewed. All ties are full spiked; no tie plates are used. The iron rail and the 40-pound steel rail are badly worn and should be renewed; the heavier steel rail is very good. Many of the fish plate joints on the light rail have only two bolts. The angle plate joints are full bolted, but many bolts are loose and should be screwed up tight and maintained in that condition. The line and surface is below medium and should be improved. The curves are not elevated for speed and the sharp ones cannot be elevated so as to be safe for fast running. They are in the highway and traveled roads cross them diagonally; they are in fair line, well braced and the track does not spread upon them. The track is lightly ballasted with gravel. The switches connecting with the main line are split and have rigid stands. Rigid frogs are used entirely. There are no bridges on the road. Crossing signs were found at all highway crossings.

The road is without mile posts or whistle posts. The railroad is partly fenced; no cattle guards at crossings. The only station buildings are at the terminals, and they are in good condition, clean and well kept. The station platforms are of plank and are in good condition. The equipment consists of three dummy engines, weighing 16 to 24 tons; two closed and six open passenger cars and one gondola. The cars are heated by stoves and lighted with oil lamps. The trainmen are uniformed. No sectionmen were employed upon the road and no trains run during the winter of 1898-9. Four sectionmen and a foreman were put to work about March 25, 1899, and trains commenced running April 15.

Recommendations.—That decayed ties be promptly renewed; that the iron and badly worn steel rail be removed and replaced with good steel rail; that the track be thoroughly repaired, lined and surfaced; that while this is being done, and until completed, no train be permitted to run at a rate of speed exceeding 18 miles an hour at any place, and that around the three very sharp curves the rate of speed be restricted to 8 miles per hour at all times.

A copy of this report was sent to the company, with a letter making the recommendations of the Inspector the recommendations of this Board. The company notified the Board that all the recommendations would be complied with, and that the work was then progressing.

SCHOHARIE VALLEY RAILROAD.

(Inspected July 28, 1899.)

The Schoharie Valley Railroad extends from Schoharie Junction, on the line of the Delaware and Hudson Company's Railroad, to Schoharie, a distance of 4.38 miles. The road is single track and standard gauge. The rail is 56 pound steel top and 60 and 72 pound steel. The 56-pound steel top rail is connected by fish plates, 24 inches in length, with 4 bolts. The 60 and 72 pound steel rail is connected by angle plates, 24 and 26 inches in length, with 4 bolts. The ties are about one-fourth oak, one-fourth chestnut and one-half hemlock. They are 6 x 8 inches and 8 feet in length, and 15 are laid to a 30-foot rail. A portion of the cuts is narrow, and slopes have washed in, filling the ditches. The embankments are not of full width, although wide enough to properly support the ties. Ditches are poor and in some cuts lacking. No sub-drainage is used. The ties are badly decayed; at least 40 per cent. should be renewed this season. About 2,000 new ties were put in the track in 1898, and 1,900 have been put in this season. It is intended to put in about 2,000 more before winter. The 56-pound steel top iron rails are so much worn, bat-

tered and bent that they are unfit to remain in the track. Very many of the joints have but two bolts, and those loose and so much worn that the nuts cannot be kept tight. Some fish and angle plates are cracked and a few broken. The line and surface of track are very poor, and curves are irregular both in line and elevation. The maximum curve is approximately 4 degrees. The maximum grade is 40 feet per mile, for short distances. All switches are stub and are generally in poor condition; some have loose head blocks. Switch stands are rigid and some of them have no targets. Frogs and guard rails are not blocked. Almost no ballast is used and weeds and grass grow plentifully upon the track. The right of way is generally fenced with boards and wire. Fences are very poor. Trees and brush are generally cut and removed from the right of way. Grass and weeds were being cut when inspection was made. The yards and sidings are in poor condition generally. The highway crossings are fairly well graded and planked. Crossing signs are of triangular form. An overhead bridge near Schoharie Junction is but 14 feet and 8 inches above the rail and no warning signals are erected. No cattle guards are used. There are no mile and no whistle posts. The rail on a Howe truss bridge of 100 feet span is laid directly upon stringers; a regular floor, with ties and guard timbers should be used. Small open culverts have some poor masonry and the ties on a portion of them are poor and require renewal. Nearly all culvert floors have no guard timbers. A foreman and 8 trackmen are employed, and an effort is evidently being made to improve the general condition of the road, but a much larger force is necessary, and ties should be obtained and put in quickly, or the road cannot be put in safe condition for the winter. The stations are clean, water is provided for drinking purposes and a time table of the road is posted. The station grounds are fairly well kept. Station platforms are of plank and are sound. The station agent at Schoharie also acts as conductor. He wears a uniform. The coaches are in medium condition; there are no tools in them and no water provided for drinking purposes. They have automatic couplers and air brakes and are heated by stoves, on account of being run in mixed trains, but are equipped for steam heating. They are lighted with oil lamps.

Recommendations.—That at least 4,000 additional ties be put in track this season; that the 56-pound steel top rails be replaced with rails of a better quality; that new angle or fish plates be put in place of the cracked and broken ones; that all joints be full bolted and all nuts screwed up tight; that the track be properly lined and surfaced; that the alignment and elevation of curves be given attention; that point switches, with suitable

switch stands with targets, be used on main track; that the worn-out frogs be replaced; that proper floors, with guard timbers, be put upon all bridges and open culverts; that warning signals be erected 200 feet each side of the low overhead bridge; that fences be put in proper condition and cattle guards be maintained at highway crossings; that the general condition of track be improved quickly, and until this is done the speed of trains be restricted to twelve miles per hour.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with.

STATEN ISLAND RAPID TRANSIT RAILROAD AND STATEN ISLAND RAILWAY.

(Inspected May 7, 1899.)

The Staten Island Rapid Transit Railroad extends from Arthur Kill Bridge, New Jersey State-line, to South Beach, a distance of 11 miles, of which 8.71 miles is double track; and the Staten Island Railway from Clifton to Tottenville, a distance of 12.7 miles, of which 10.10 miles is double track. The track is standard gauge and laid with 60 and 70 pound steel rail, connected by angle plates 20 and 24 inches in length, with 4 bolts. The ties are all yellow pine, 7 x 9 inches by 8 feet long, and 15 are laid to a 30-foot rail.

The cuts and fills are of proper width and slope, and embankments are full width. The roadway is well ditched. There is one tunnel, 585 feet long, 22 feet wide and 22 feet in height, near St. George; the bench walls are stone, and the arch is brick.

There are about two miles of trestles on the line located at various points, the longest being at Arthur Kill. They are nearly all on piling, and are kept in good repair. Some stringers, caps and ties require renewal; sufficient materials to do this are on hand and men engaged putting them in. The ties on bridges are yellow pine, 8 x 8 inches by 10 and 12 feet in length; these are 12 inches center to center, and are held in position by 8 x 8 inch guard timber, notched 1 inch, and bolted to every fourth tie. The ties on open culverts and trestles are 8 x 8 inches and 9 feet long. Guard timbers 8 x 8 inches, notched 1 inch, and bolted to every fourth tie. All ties are notched on stringers, and every twelfth one drift bolted. Water is kept in barrels on trestles, as protection against fire.

Small openings through embankments are iron or vitrified pipe; larger ones are stone box or brick arch culverts.

The general alignment is good. The maximum curve is 16 degrees, located at Arrochar. The maximum grade is 80 feet to the mile—also at Arrochar. The condition of the rail is fair; about 400 tons of new rail are now being laid. The ties are generally in good condition and evenly spaced; about 14,000 were renewed in 1898, and 17,000 are ordered for 1899. The ties are full spiked. A few tie plates are used. All angle plates are fully bolted. Some loose bolts were noted, which should be removed and new ones put in their place, as the threads are so badly worn that nuts will not remain tight. The line and surface are in fair condition, and curves are properly elevated. There are two Wharton switches on the line, and the balance are point. The frogs are mostly rigid; a few spring rail frogs are used. The switches at St. George, Port Richmond and Clifton Junction are interlocked and handled from tower. The track is fairly ballasted with stone and cinders. The right of way is fairly well fenced, and fences are kept in good condition. All trees, brush and weeds are cut, and the right of way is clean and neat. The condition of yards is good. Cattle guards are usually the steel slat guards; a few wooden slat guards were noticed. The stations were found exceedingly clean, and sanitary condition good. All stations are furnished with drinking water. There is a sign on each, giving the name of the station. Station grounds are well kept. Station platforms are all high and are of plank. All were found in good condition. Many of the agents employed during the day are women. The station employees are not uniformed, but as a rule wear badges. Crossing signs are erected at all highways, and whistle posts are in proper places. Crossings are all well planked. Warning signals are placed where overhead structures have less than 20 foot headway. The general condition of the road is good; all branches of maintenance and operation appear to have careful and competent attention.

A copy of this report was sent to the company.

STONY CLOVE AND CATSKILL MOUNTAIN AND KAATERSKILL RAILROADS, AND HUNTER BRANCH.

(Inspected August 17, 1899.)

The Stony Clove and Catskill Mountain Railroad extends from Phoenicia, on the main line, to Kaaterskill, a distance of 19.20 miles, and the Hunter Branch from Kaaterskill Junction to Hunter, a distance of 2.60 miles. The road is single track and all excepting the Hunter Branch, standard gauge, and laid with 90-pound steel rail. The Hunter Branch is 3-foot gauge and laid with

40-pound steel rail. The 90-pound rail is connected by angle plates 30 inches in length, with 6 bolts; the 40-pound rail by fish plates 18 inches in length, with 4 bolts. The ties in main line track are 6 x 9 inches and 8 feet in length; all yellow pine, and 16 are laid to a 30-foot rail. The ties in Hunter Branch track are 6 x 8 inches and 6 feet in length; they are chestnut and oak and 16 are laid to a 30-foot rail. The main line cuts are generally narrow and slopes steep. Embankments are also narrow, but a very large force is at work widening and sloping both cuts and embankments and at the same time ditching the roadbed. This line has been changed from a 3-foot gauge to standard gauge this season, necessitating the widening of cuts and embankments, and in some places complete change of line. The time for doing all this work has been short, but it is being thoroughly well done, and as now going on all will be in first-class condition before winter.

The cuts, fills and ditches on the Hunter Branch are very fair. This line is to be made standard gauge in the near future. The 90-pound rail is all new and in excellent condition. The 40-pound rail is much worn, and is to be removed. The main line ties are almost entirely new; they are evenly spaced and full spiked. The ties on Hunter Branch are poor, and many renewals are needed. The connections of the 90-pound rail are good, and of the 40-pound rail medium. All angle plates are full bolted and all nuts tight. The fish plates are generally full bolted, but many bolts are loose.

The joints, line and surfacing are fair, and a large force of men engaged putting the track in better line and surface. Curves are in good line and elevated for speed of trains. The maximum curves are $11\frac{1}{2}$ degrees, and the maximum grade 158 feet per mile. The switches in main track are all split point. Switch-stands are automatic; all have targets, well painted. Frogs in 90-pound rail are all rigid, and in 40-pound, spring rail. Frogs and guard rails are not blocked. The ballast is gravel in medium quantity.

The fences are wire, but not in good condition, and only maintained opposite grazing lands. All trees are cut and removed from the right of way. Some small brush has been allowed to remain, which should be cut and cleared away.

Yards and sidings are in fair condition. Derailing switches are in sidings where grade descends toward main track. Highway crossings are well planked; the approaches to a few require additional grading, which has been arranged for. Crossing signs are of triangular form; are all in place, well painted and have 9-inch letters. Cattle guards are generally lacking; a few pit guards remain in use, but are to be filled and slat guards substituted. Whistle posts are located at proper distance from all highway crossings.

The bridges, trestles, open culverts and cattle passes are all in good condition, and have good substantial floor systems, with guard timbers notched on the ties and securely bolted. Nearly all bridges are of steel or iron, of excellent design, and almost entirely new this season; all are well painted. Nearly all trestles have been filled, and the remaining one is now being filled. The openings under or through the embankments are stone arch and box culverts and iron pipes; all are in good condition. The length of the sections is 5 miles, and regular force a foreman and six men. At present, however, about 200 men are employed upon the track lining and surfacing the new rail. All section gangs are provided with flags, lanterns and torpedoes. The stations are in the same generally good condition as the main line, and same remarks apply. A new and very complete passenger station has been erected this season at Tannersville. For remarks on equipment, see main line report. The narrow-gauge cars are similarly equipped.

Recommendations.—That all brush on right of way be cut and removed. That the right of way be entirely fenced. That cattle guards be maintained at each boundary of all highways crossed, and that inside guard rails be laid and maintained upon all bridge structures.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board.

ULSTER AND DELAWARE RAILROAD.

Main Line.

(Inspected October 4, 1899.)

The main line of the Ulster and Delaware Railroad extends from Kingston Point to Bloomsburg, a distance of 87.40 miles. The road is single track, standard gauge. Four miles are laid with 90-pound, 13 miles with 70 pound, and the balance with 62-pound steel rail. The 90-pound rail is connected by 30-inch angle plates, with 6 bolts; the 70-pound rail by 24-inch angle plates, with 4 bolts, and the 62-pound rail by 22-inch angle plates, with 4 bolts. The ties, about one-half chestnut and balance yellow pine and oak, are 6 x 9 inches and 8 feet in length; 16 are laid to a 30-foot rail. The earth cuts are taken out to full width and slopes. A few of the rock cuts are narrow and do not admit of sufficient ditches to thoroughly drain the roadbed. The embankments are generally of sufficient width. A few should be reinforced where the track has been raised. The roadbed is generally well ditched. No sub-drainage has been done.

The ties are in good condition; about 40,000 have been renewed this season. The 90-pound rail is new and in excellent condition; the 70-pound rail is very fair; the 62-pound rail is considerably worn, especially at the joints. Four miles of new 90-pound rail has been laid this year and 21 miles additional are distributed and now being put in track, replacing 62-pound rail. Spare rails, for use when needed, are kept on hand each mile. The connections are good. All angle plates are full bolted and no nuts were found loose. No tie plates are in use, but many are to be used with the new rail. The joints, line and surfacing are good. All curves are in good line and properly elevated for speed of trains. Rail braces are used on sharp curves. The maximum curve is $11\frac{1}{2}$ degrees, located on Pine Hill, and the maximum grade is 158 feet per mile for a short distance on the Pine Hill grade; the grade for the balance of the hill is 144 feet per mile. The switches are split point, excepting in main yards, and are in good condition. Both rigid and automatic switch stands are used. They all have well-painted targets. The frogs are nearly all rigid. Frogs and guard rails are not blocked. The track is ballasted with gravel in fair quantity. No shims were found in use.

The West Shore Railroad is crossed at grade at Kingston; the crossing is protected by a flagman. All trains are required to come to a full stop before crossing. The West Shore Railroad maintains the crossing. The Kingston City Electric Railroad connects with and its cars are run upon the main track of the Ulster and Delaware Railroad between Kingston Point and Rondout for a distance of about one-third of a mile.

The fences are generally in poor condition. All trees are cut and removed from the right of way. Along the side of the mountain some brush is allowed to remain, but none near the track or where it would obstruct the view. The yards and sidings are well cared for and no rubbish allowed to accumulate. Derailing switches are in all sidings where grade descends toward main track. The highway crossings are well planked. Crossing signs of triangular form are conspicuously placed at all highways. They are well painted and the letters are of legal size. The cattle guards are of the wooden slat pattern, and are in fair condition. Whistle posts are at the prescribed distance from highway crossings. There are no mile posts. Warning signals are maintained where overhead obstructions are less than 20 feet above the track.

The bridges, trestles, open culverts and cattle passes are all in good condition. Nearly all bridges are of iron or steel, and are well painted. All have standard floors of good design, with guard timbers notched on the ties and securely bolted to them.

The openings under or through the embankments for passage of water are stone arch and box culverts and iron pipe, all in good condition. The length of the section is 5 miles, and a foreman and 8 trackmen are employed upon each. All gangs are provided with flags, lanterns and torpedoes. A regular track-walker is employed upon each section. Eight highway or street crossings are protected by flagmen.

The stations are neat and clean and in good sanitary condition. There is a sign upon each giving its name. A new and commodious passenger station has been erected this season at Phoenicia. All principal stations are furnished with drinking water, and a time table of the road is posted in all waiting rooms. Agents can check baggage to all points to which they sell tickets. The station grounds are neat and clean. The platforms are plank and in good condition. Station employees wear uniforms. The coaches are in good condition, are supplied with tanks for drinking water, have tools properly located in the center of each; they have automatic couplers and air brakes, are heated by steam and lighted by oil lamps. All trainmen are uniformed. About 70 per cent. of the freight cars are equipped with automatic couplers and 7 per cent. with air brakes. The balance are to be so equipped as fast as possible. All box cars have grab irons on the sides and ladders on the ends. Car-repairers, when at work, are protected by a blue flag.

Recommendations.—That the fences be put in proper condition and that inside guard rails be laid and maintained upon all bridge structures.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations would be complied with as rapidly as possible.

UNADILLA VALLEY RAILWAY.

(Inspected August 2, 1899.)

The Unadilla Valley Railway extends from New Berlin, on the line of the New Berlin branch of the New York, Ontario and Western Railway, to Bridge water, on the line of the Richfield Springs branch of the Delaware, Lackawanna and Western Railroad, a distance of 19.14 miles. The road is single track, standard gauge, and laid with 56 and 70 pound steel rail (15 miles is laid with 56-pound rail and the balance with 70-pound rail). The rail is connected by angle plates 24 inches in length, with 4 bolts. The ties, about three-fourths chestnut and one-fourth oak, are 7 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot

rail. The cuts and embankments are all full width and slopes. The roadway is well ditched. The ties are considerably decayed in portions of the track, and approximately 12½ per cent. of all ties should be renewed this season. The 70-pound rail is good; the 56-pound rail is in only medium condition; a few track bolts are missing and very many have loose nuts. The joints, line and surfacing are very good. Curves are well lined and have proper elevation. The maximum curve is 6 degrees, located near South Edmeston. The maximum grade is 42 feet per mile, near Edmeston. The main track switches are all split point and are in good condition. Switch-stands are nearly all rigid; a few have spring on connecting rod, rendering switch automatic. Switch targets are well painted. A few switch-stands have no targets. All frogs are rigid. Frogs and guard-rails are not blocked. The track is ballasted with gravel in fair quantity; about one mile has been reballasted this season. Some shims were found in use.

The right of way is poorly fenced. All trees have been cut and removed, and the right of way is generally clean.

The condition of yards and sidings is good.

The highway crossings are given proper attention; the approaches are well graded and planking is very fair. The crossing signs are of the "X" form and are properly located at all highways; they are in good condition and well painted, but lettering is not as required by law, the letters being 8 inches in length, instead of 9 inches.

There are no cattle guards, no whistle posts and no mile posts. There are no overhead obstructions less than 20 feet above the track.

There are no large bridges. Trestles and open culverts are in very good condition; a few require new ties and guard timbers. Ties 8 feet in length and without guard timbers are used on a portion of the trestles and open culverts. Longer ties, with guard timbers notched, and bolted to every third or fourth tie, should be used on all such structures. Several small trestles have been recently filled, and others are to be filled in the near future.

The sections are 6½ miles in length, and a foreman and 5 trackmen are employed upon each.

The stations are clean and in good sanitary condition; all are furnished with drinking water, and a time table of the road is posted; there is a sign upon each giving its name. Agents can furnish checks to all points to which they sell tickets. The station grounds are neat and clean. The station platforms are of plank and in fair condition. Station employees are not uniformed.

The coaches are in good condition, with drinking water in each. They are furnished with tools located in center of the cars; they are equipped with automatic couplers and air brakes, are heated by steam and lighted with oil lamps. Freight cars have air brakes and automatic couplers, grab-irons on the sides, and ladders on the ends of cars.

Recommendations.—That all joints be full bolted and all nuts screwed up tight; that all switch-stands be provided with targets; that ties at least 9 feet in length, with guard timbers notched, and bolted to every third or fourth tie, be used on all bridges; that the condition of fences be improved; that mile and whistle posts be erected; that cattle guards be put in at all highway crossings; that letters on crossing signs be made 9 inches in length, as required by law.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company informed the Board that the recommendations were being, and would be, complied with.

UNITED STATES AND CANADA RAILROAD.

(Inspected July 3, 1899.)

The United States and Canada Railroad, operated by the Grand Trunk, extends from the international boundary to Massena Springs, N. Y., a distance of 22.18 miles.

The road is single track, standard gauge and laid with steel rail 56 pounds to the yard, connected by fish plates 18 inches in length, with 4 bolts. The ties are cedar, 6 x 8 inches and 8 feet in length, and 16 are laid to a 30-foot rail. The cuts are taken out to the proper width and slopes. The embankments are full width and sloped. The roadway is well ditched. No sub-drainage is in use. The ties are in good condition, and very few will require renewal this season; they are well spaced and full spiked, although in many places not properly, the inside spikes being driven in opposite edges of the ties, and the outside spikes to correspond. Both inside spikes should be driven near same edge of tie, and the outside spikes near the opposite edge; otherwise the tie will "slew" and become loose, allowing rails to spread. No tie plates are used. The condition of the rails is very good. All fishplates are full bolted and nuts are screwed up tight. The joints, line and surfacing are good. All curves are properly elevated. The general alignment is good. There are very few curves and, as a rule, they are very light, the sharpest being 4 degrees. The grade is practically level. Gravel and sand are used for ballast in moderate quantity. The switches are all

point. Frogs are rigid. Switch stands are automatic or have springs on connecting rod, allowing switch to act automatically. All switch stands have targets, and they are well painted. The frogs, guard rails and heels of switches are blocked. Shims used to block up the rails last winter have not been removed.

The New York and Ottawa Railroad is crossed at grade at Helena Junction. The crossing is protected by home and distant signals on both roads in each direction, and derailing switches in all tracks, interlocked and operated from a tower located at the crossing.

The right of way is all fenced; the fences are wire and are in good condition. All trees, brush and weeds are cut, and the right of way is exceptionally free from rubbish of any sort. The sidings and yards are in good condition and clean. The highway crossings are well planked and approaches are properly graded. Crossing signs are the long board design, reaching across the traveled road; they are well painted and letters are legal size. There are no overhead obstructions less than 20 feet above the rail. Cattle guards are of the wooden slat pattern, and are in medium condition. Mile and whistle posts are in good condition, and whistle posts are at proper distance from each crossing.

The bridges, trestles, culverts and cattle passes are all in good condition, excepting the Howe truss bridge at Fort Covington, which has 9 cracked angle blocks, and some pieces of chords are somewhat decayed. A large portion of the smaller openings and several larger ones, as well as all the trestles, have been renewed or thoroughly repaired. Box culverts are made of cedar timber; also the abutments of all open culverts and cattle passes, and a few of the abutments of larger bridges are cedar cribs. All are comparatively new and in good condition, excepting one 30-foot span just west of Bombay Junction, which is to be renewed very soon.

The sections are 6 miles in length, and a foreman and three men are employed upon each. Each gang is supplied with flags and torpedoes. The stations are clean and sanitary condition good. There is a sign upon each giving its name. Most stations are supplied with drinking water, and time tables are posted in all. Agents can check baggage to all points to which they sell tickets. The station grounds are clean; the platforms are plank, and are in good condition. Agents and helpers do not wear uniforms.

The coaches are in good condition and have drinking water in each. They are furnished with tools located near the end of the car. They have automatic couplers and air brakes, are heated

by steam and lighted by oil lamps. Baggage cars carry wrecking tools. The larger portion of the freight cars are equipped with automatic couplers and air brakes, and the balance are being equipped as fast as possible. Grab irons are in proper place on side of cars. All trainmen are uniformed.

Recommendations.—That attention be given to the proper method of spiking ties; that all shims be removed as soon as possible, and that the Howe truss bridge at Fort Covington receive prompt attention.

A copy of this report was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board. The company answered that it would comply with the recommendations.

SPECIAL REPORTS OF THE INSPECTOR AND ELECTRICAL EXPERT FOR THE BOARD, AS TO THE RAILROAD STRUCTURE OF THE MANHATTAN RAILWAY COMPANY.

Report by Inspector:

The Manhattan Railway system is composed of the Second, Third, Sixth and Ninth avenue and Suburban lines of elevated structures in the city of New York.

The Second Avenue line includes the portion from Chatham Square, through Division street, First and Second avenues, to One Hundred and Twenty-ninth street, one-half joint structure Park Row from Chambers street to Chatham Square, and Pearl street from Beaver street to Chatham Square. It has 7.99 miles of double track line, 3.03 miles of center or third track and 3.62 miles of sidings and other tracks, a total of 22.63 miles of track.

The Third Avenue line includes the portion from South Ferry to Beaver street, one-half joint structure from Beaver street, through Pearl and New Bowery to Chatham Square, from Chatham Square to One Hundred and Twenty-ninth street on Third avenue, with branches Park Row, from City Hall to Chambers street, one-half joint structure from Chambers street to Chatham Square, Thirty-fourth Street branch, from Third avenue to Long Island Ferry, and Forty-second Street branch, from Third avenue to Grand Central station. It has 8.79 miles of double track line, 4.15 miles center track and 4.32 miles of sidings and other tracks, a total of 26.05 miles of track.

The Sixth Avenue line includes the portion from Morris street through Trinity Place, Church street, Murray street, West Broadway, West Third street and Sixth avenue to Fifty-ninth street, from Sixth avenue on Fifty-third street to Ninth avenue, one-half joint structure from Fifty-third to Eighty-third street, on

Ninth and Columbus avenues, from Eighty-third street on Columbus and Eighth avenues to One Hundred and Fifty-ninth street. It has 10.14 miles of double-track line, 4.40 miles center track and 10.31 miles of sidings and other tracks, a total of 34.99 miles of track.

The Ninth Avenue line includes the portion from South Ferry through Greenwich street and Ninth avenue to Fifty-third street, and one-half the joint structure on Ninth and Columbus avenues to Eighty-third street. It has 5.53 miles of double track line, 2.91 miles center track and 1.33 miles of sidings and other tracks, a total of 15.30 miles of track.

The Suburban line includes that portion beginning at One Hundred and Twenty-ninth street and Third avenue, and extending north of the Harlem river to Tremont avenue (One Hundred and Seventy-seventh street), and one-half the joint structure from column 64, north of the Harlem river, to the east side of Willis avenue, and connecting with the N. Y., N. H. and H. R. R. It has 3.74 miles of double track line, 0.14 miles of center track and 2.50 miles of sidings and other tracks, a total of 10.12 miles of track.

The totals of mileage for the system are: 36.19 miles of double track line, 14.63 miles of center track and 22.08 miles of sidings and other tracks, a total of 109.09 miles of single track. During the hours of heavy travel, morning and evening, express trains run on the center track from near Fourteenth Street station, on Ninth Avenue line, and from Fifty-third street, on Sixth Avenue line, to near One Hundred and Sixteenth Street station, a distance of 5.26 miles; also on Third Avenue line, from Fifty-eighth to Ninety-eighth streets, a distance of 2.04 miles. South-bound trains run on those tracks in the morning and north-bound trains in the evening.

The inspection of the Manhattan system was commenced March 14th and continued without interruption to April 13th. In this time your inspector walked underneath the structure the entire length of all its lines, frequently going over portions of them the second time in order to more closely examine those places where columns and tracks are widely separated. In this manner were examined foundations and columns, and a general view was obtained of girders, connections, etc., from the under side. Columns were frequently climbed by your inspector to scrutinize more closely some connection or other part not plainly visible from the ground. He also walked on the top of the structure, along or upon the tracks, over the entire system, frequently going beneath the ties among the girders or trusses, looking carefully at their various parts, and especially at the connections with top of columns and with each other;

also looking for loose rivets or other defects; often testing all the rivets with a hammer for an entire span and sometimes several spans continuously. During this part of the inspection everything pertaining to maintenance of tracks, switches, signalling and stations was also examined, and, in fact, all things connected with the maintenance and operation of the road were scrutinized.

No weak or defective foundations were discovered. A few castings at foot of columns show cracks at the top, but they were not found to extend far, and the fact that the lead calking has not been disturbed shows that no weakness has resulted therefrom and that the cracks were doubtless made previous to or during the erection. Roadmaster Black, who saw the erection of the structure, states that the cracks were made at that time by the insertion of iron wedges to plumb the columns. Arrangements are now made for banding those not already banded, to prevent possibility of the cracks extending. Some of the cast-iron fenders at the foot of columns placed in the street are broken, but they were placed there only to prevent trucks and wagons from striking the columns, and have nothing to do with supporting or strengthening the columns. The columns used are of various kinds, but all indicate abundant strength, and no defects affecting their safety were discovered. The anchorage has proven sufficient. Only one column was found loose at the foot, and the movement of that was less than one-sixteenth of an inch. The transverse girders on all lines excepting the Suburban are mainly of lattice design, and are in good condition, showing no indication of excessive deflection or bending, and are very free from loose rivets. Some plate, lattice and truss transverse girders are used, and all in good condition and of sufficient strength. The Suburban line, excepting on private ground, where brick piers are used in place of columns, is all plate girder construction, of excellent design and great strength. The longitudinal girders on all the other lines are mainly of the open webbed type, and are of a great variety of weights and depths, to meet local requirements and an almost constant variation in lengths of span. Nearly all the lighter girders of this type have been strengthened by the addition of another set of diagonals, each composed of two flat bars, which pass between the original angle diagonals, and are secured at intersections by one rivet, and to upper and lower chords by four or five rivets at each end, according to size of plates, those near ends of girders being wider and heavier than those near centers. A heavy plate has also been riveted to the under side of the lower chord, this plate extending from the center of the girder about half way to each end. Two large

gangs are now at work strengthening the light girders on the Ninth Avenue line. These girders do not calculate weak, nor do they show indications of weakness; the rivets do not appear to work loose nor do the girders deflect under loads beyond the allowable safe limit.

To determine the quality of metal and whether any deterioration had taken place during the twenty years' service to which the iron in the Ninth Avenue structure has been subjected, a diagonal brace at the end of one of the lightest and shallowest girders was removed and tested. The brace consisted of two angle irons 6" x 4" x 15-32" x 3' 1" long, connected with the cord angles by four $\frac{3}{4}$ " rivets at each end. This brace, particularly at the riveted ends, receives the severest strain of any part of the span. One angle iron was cut up for testing, and its mate preserved exactly as it came from the structure. The rivet holes are round and show no distortion. A strip cut from the angle iron was bent double under blows of a hammer, to a curve of radius equal to the thickness of the piece, without sign of fracture. When nicked with a chisel and broken with a sledge the fracture was entirely fibrous. When nicked and broken with a sledge across a rivet hole the fracture was entirely fibrous and showed no injured material around the hole. A hole punched 1 $\frac{1}{4}$ " from center to edge of piece, and $\frac{3}{4}$ " in diameter, was enlarged by drifting to 1 $\frac{1}{4}$ " diameter before a crack appeared. The angle iron was then placed on the anvil of a steam hammer, with both edges down, and hammered on the corner until it broke. The break along the fillet showed fine, fibrous structure. Tension tests show: Elastic limit, 35,140 lbs. per square inch; ultimate strength, 50,610 lbs. per square inch; elongation in 8 inches, 16.73 per cent.; reduction in area, 30.40 per cent. These tests, therefore, show a very high grade of iron. A few lattice girders are used and quite a proportion of plate. Pin-connected deck trusses are used on the high portion of the Sixth Avenue line near One Hundred and Tenth street. All are in good condition and of sufficient strength. At various places on the Ninth Avenue line, through Greenwich street, the old-style 24-inch plate girders have been doubled by placing one above the other. The connections of these girders are somewhat crude, but they hold their positions and are abundantly strong. A few expansion bolts were found bent, broken or missing, but upon attention being called to them they were promptly replaced.

On the Ninth Avenue line, through Greenwich street, the most thorough examination was made, on account of the soundness and safety of that portion of the road having been questioned. Not a loose rivet in main girder members was found, and but

a very few in lateral connections. The deflections under trains was measured in a great many places, and the greatest found was 7-16 of an inch in center of a 53-foot span. The lateral movement or sway was also measured at top of girders, where it would be greatest, and in no case did the total movement exceed 5-16 of an inch (or 5-32 of an inch each way from the normal position). These tests were made on the single-column structure, where there was no connection between the tracks, excepting at station and on curves. Your inspector is confident that, barring untoward accidents, this portion of the structure is thoroughly safe.

On the various lines some open-web girders are used which have more metal, and the reinforcing is not considered necessary. There is, however, in some of these girders, as constructed, a defect which, while it does not affect the safety, may materially shorten the life of the bottom chord. In these girders the two angles which form the bottom chord are not riveted together between the panel points, and the bottom laterals connect with the inner angle of the bottom chord about half way between those points. The result of this is, that vibration causes a slight opening between the bottom chord angles, breaking the paint and allowing water to get in, permitting rust to form, which will result in injury. This can be effectively corrected by riveting the lower chord angles together at those places, and it should be done. The plate and deck truss girders on all lines are in good condition. The floor-beam connections on a portion of the pin-connected spans on the Sixth Avenue line are not in a satisfactory condition and should be improved. The ends of the floor beams at intermediate points are inserted between the two channels that form the intermediate posts, and rest upon the edge of the pin plates, but are not secured to them or the bottom chord. They are secured to the post channels at the top by two bracket angles riveted to the flange of the floor beam and to the channels. The slight movement of the floor beams upon the pin plates, caused by vibration and slight bending of the floorbeams under trains, has worn the plates 1-16 to $\frac{1}{8}$ inch, thus causing so much strain to come upon the small angles at the top of floorbeams, that they have either broken through the apex, have broken the flange of floorbeams, or the rivets have pulled loose. The result of this is to allow excessive vibration, which is very injurious, and some measures should be promptly taken to rigidly connect the floorbeams and the posts, and thus prevent it. Your inspector would recommend that two angles be riveted to floorbeams and channels for the entire length between the flange angles, and that enough rivets be put in to transfer all strains. This will greatly reduce the vibration and

render the connection much better than as originally constructed. Four competent inspectors are employed by the company, who go over the structure daily, looking for defects, which, when discovered, are promptly remedied by experienced metal workers kept in service for that specific purpose. One of the company's inspectors accompanied your inspector throughout the examination and every necessary mechanical facility was promptly furnished. The chief engineer and the roadmaster frequently accompanied your inspector to look at places where changes or improvements were suggested.

A large portion of the structure needs painting, although it is not in as bad condition on that account as appearances would indicate. Rust and stain from the track and connections have discolored it greatly, but even where the metal appears bare of paint and covered with rust, there is in most cases underneath the dirt and stain a heavy coating of paint, which, upon being removed, shows the underlying metal clean and bright. About two hundred men were found upon the various lines, cleaning and painting the metal work. This cleaning and painting was being thoroughly done, and will result in great benefit to the structure as well as improvement in its appearance. The structure was found very dirty in places, especially where the tracks are close to the buildings, in certain down town tenement house districts, where rubbish and filth of every description are almost constantly being thrown upon it from overlooking windows. This refuse the company's employees are not permitted to brush off upon the street, but they must gather it up in bags. It is then loaded into carts employed for that purpose and taken to the city dump. The roadmaster who has charge of the work stated that this portion of the structure is cleaned from two to three times a month.

Drip pans are suspended beneath the structure where engines stop at stations, and over the cross-walks which are most used. They are cleaned frequently—as often as once a week about down town stations where engines frequently stand for a considerable time, and as often as necessary elsewhere. They usually drain to the sewer. Some were found leaking, but the large majority of them are in fair condition.

All timber used upon the structure is yellow pine, and has been vulcanized by some secret process, which results in very thorough and quick seasoning and prevents checking. It is also claimed that the treatment given to the wood results in making it much more durable. The cross ties are 6 x 8 inches, and are spaced 18 inches, center to center, and they are generally in good condition. Some poor ones were noted. Over 37,000 new ties were put in during 1898, and 5,300 since January 1st to April

1st this year. Men were engaged putting in ties at various places when the inspection was being made. It is evidently the policy and practice of the company to renew all timber as soon as it shows evidence of decay. Guard timbers 6 x 8 inches are used, both inside and outside of the gauge rails, excepting on sharp curves, where steel rail securely bolted to the gauge rail is used upon the inside instead of the wooden guard timber. Walks, either between the tracks or upon the side, are maintained for the use of employees, and where they run along the side are protected by iron railing. All materials used in maintenance of tracks are of the best quality, and all items of track work show careful and intelligent attention. The rail on all main lines is 90-pound steel; much of it is comparatively new and none very much worn. In 1898, 14.82 miles of new rail were laid, and up to April 1st, 3.05 miles has been laid in 1899. The rail on sharp curves has to be renewed about once in two years; on straight lines it lasts from ten to twelve years. On the Thirty-fourth and Forty-second street branches 70-pound rail is used. In yards and on sidings both 70 and 50 pound rail are used. Metal tie plates are used under the rail on each tie, and all rails are full spiked, true to line and gauge. The angle plates are of good design, none cracked or broken; all joints are full bolted, and all nuts screwed up tight. The rail is laid with staggered joints, excepting a part of the center track and portions of yards and sidings. Switches are all point; both spring rail and rigid frogs are used. Facing switches are avoided as far as possible, and any not connected with signal towers are interlocked with signals and cannot be set for other than the main track without first setting signal showing danger to approaching trains. There are 48 interlocking plants with towers or cabins on the system. They are located at all terminals, junctions and approaches to yards, at both ends of all center tracks used by express trains, and at all other points where switches require frequent handling. All sharp curves where the view is obstructed are protected by automatic signals, which are operated by the wheels of the trains. In fact, the entire line is equipped with this form of block signals, but on straight lines they are not used, excepting when fog or storm obscures the view.

The stations are clean and well kept, but many of them should be painted. Several have been newly painted and men were at work painting others. There is an evident lack of stairways approaching many of the down town stations. The officials of the company stated that they would very gladly increase both the number and width of stairways, but cannot obtain the right to do so. The lack of sufficient approaches to stations was also observed on the Suburban line. The stations are located between

tracks, and a majority of them have but one stairway. There is but one water closet in the stations on that line; an additional closet should be placed in each station.

The principal yards are at One Hundred and Twenty-ninth street for Second avenue line; Ninety-eighth and One Hundred and Twenty-ninth streets for Third avenue line; One Hundred and Twenty-ninth and One Hundred and Thirty-third streets for the Suburban branch; One Hundred and Forty-fourth, One Hundred and Forty-fifth and One Hundred and Fifty-ninth streets for Sixth and Ninth avenue lines. A small amount of storage capacity for cars is also provided at all terminals and at various other places on the line. The coaling station for all east side trains is at One Hundred and Twenty-ninth street; for the Sixth avenue line at One Hundred and Fifty-ninth street; for the Ninth avenue line at No. 69 Greenwich street. A small supply of coal for emergency use is also kept at terminals, yards and other necessary places. East side water stations are at No. 4 Front street; Franklin Square, City Hall terminal, Chatham Square, Ninth street, Ninety-eighth street, One Hundred and Twenty-seventh street and One Hundred and Twenty-ninth street on Third avenue; Sixty-seventh street and One Hundred and Twenty-ninth street on Second avenue; One Hundred and Thirty-third and One Hundred and Seventy-seventh streets on the Suburban, the Forty-second street branch and Thirty-fourth street branch. West side water stations are at No. 32 Trinity Place, Franklin street and West Broadway, Fifty-eighth street, Sixth avenue; One Hundred and Thirty-fifth, One Hundred and Thirty-eighth, One Hundred and Forty-fifth and One Hundred and Fifty-ninth streets, Eighth avenue; Sixtieth street, Ninth avenue, and No. 69 Greenwich street. The general repair shops are at Ninety-eighth street, Third avenue; One Hundred and Forty-fifth street, Eighth avenue, and One Hundred and Thirty-third street on the Suburban line. Minor repairs are also made at terminals and yards.

The motive power is kept in thorough repair; engines are inspected daily, and at each inspection the screens in smoke stacks are carefully examined, and if defective are taken out and new ones put in. The cars are inspected at each end of their runs; they are kept neat and clean and in good sanitary condition; the seats and mattings are taken out, cleaned and disinfected daily.

The train service varies somewhat on the different lines; it also varies greatly throughout the day, to meet various requirements. All night service is maintained on the Third, Sixth and Ninth avenue and the Suburban line. On Second avenue the first train in a. m. starts at 4:41; the last one in p. m. at 12:45,

reaching its destination at One Hundred and Twenty-ninth street at 1:26 a. m. On the Third avenue line from midnight to 4:30 a. m. the interval between trains is 10 minutes; from 4:30 to 5:45, 5 minutes; 5:45 to 6:55, 3 minutes; 6:55 to 9:42, $1\frac{1}{2}$ minutes; 9:42 to 4:50 p. m., 3 minutes; 4:50 to 5:55, $1\frac{1}{2}$ minutes; 5:55 to 8:15, 3 minutes; 8:15 to 11:15, 4 minutes; 11:15 to midnight, 5 minutes. On the Suburban line during night hours all Third avenue trains run through; from 6:55 a. m. to 11:15 p. m. only about one-half the Third avenue trains go beyond One Hundred and Twenty-ninth street. On the Sixth avenue line, from 12:15 a. m. to 4:30 a. m. the interval between trains is 15 minutes; 4:30 to 5:26, 8 minutes; 5:26 to 6:45, 6 minutes; 6:45 to 7:05, 3 minutes; 7:05 to 7:55, 2 minutes; 7:55 a. m. to 4:30 p. m., 3 minutes; from 4:30 to 5:13, $1\frac{1}{2}$ minutes; 5:13 to 8:03, 3 minutes; 8:03 to 10:21, 6 minutes; 10:21 to 12:15, 8 minutes. On the Ninth avenue line from midnight to 4:52 a. m. the interval between trains is 15 minutes; 4:52 to 5:44, 6 minutes; 5:44 to 9:46, 2 minutes; 9:46 to 4:03 p. m., 4 minutes; 4:03 to 6:16, 2 minutes; 6:16 to 7:21, 4 minutes; 7:21 to midnight, 8 minutes. On that portion of the line used by both the Sixth and Ninth avenue trains during the rush hours of the evening, the time between trains averages but 53 seconds. During those hours trains are very badly crowded, but there appears to be no room for running more trains; they now run as closely as possible, consistent with safety. Train and station employees are uniformed and wear badges, indicating their employment.

Respectfully submitted,

J. D. SHULTZ,

Inspector.

Report by Electrical Expert:

April 29, 1899.

In accordance with instructions contained in your letter of January 11, 1899, I have made an examination of the Manhattan Elevated Railroad of New York city, with reference to the action of electrolysis on the structure of that company, and submit the following:

I have made 867 tests, covering all portions of the city where the Manhattan Railway Company's structure is located. These tests were made from the supporting columns of the structure of the elevated road to the water pipe, gas pipe and rails of the surface road under it. All tests were made with a standard Weston voltmeter, with scale divisions reading to 30s. One side of this instrument was connected by wires and clamps especially made for this purpose with a column of the elevated structure, the other side with a water hydrant and gas post, and also the rails of the surface street railroad. A reading of the voltmeter was taken

after each connection was made, making three separate tests at each point where a test was made. These were commenced January 24th and completed April 20, 1899. All were made while the ground was frozen.

The results of the tests are given in the tables accompanying this report, and are also plotted in the attached diagrams. These show that at the time of making the tests, the maximum difference of potential between the elevated structure and the water pipe near it was found at the Manhattan end of the Brooklyn bridge, where there was a difference of potential of $2\frac{1}{2}$ volts. As will be seen from the tables and diagrams, this difference of potential was gradually reduced until Chatham Square was reached, where it was two-thirtieths of a volt. The next highest potential was found in the neighborhood of the Union Railway Company's system at One Hundred and Thirty-fifth street, the maximum near this electric road being three-thirtieths of a volt, which was found to gradually reduce from this point in either direction. At these two points of maximum difference of potential the elevated structure was positive to the metal conductors in the earth near it, showing that a current of electricity was flowing from the elevated structure to them. At other points on the different lines of the company's system the difference of potential differs from zero to the maximum of two and one-half volts at the bridge entrance, in some cases the structure being positive to the conductors near it, and in others being negative to them, all of which is plotted in the diagrams, so that the polarity of the structure and the difference of potential at any point can be readily ascertained.

The action of the voltmeter needle shows there are two distinct currents which produce this difference of potential. By the fluctuations of the needle the higher potential differences were recognized as the result of electric railroad currents, and the lower ones, one-thirtieth of a volt and less, by the needle remaining perfectly steady could be traced to some direct current of constant potential, such as is used for incandescent lighting.

Difference of potential in the case of the maximum difference of two and one-half volts at the Brooklyn bridge is caused by the current flowing into the structure from the trolley system, which is operated over the bridge, and the difference at and near One Hundred and Thirty-fifth street is caused by currents from the Union Railway Company's system. As shown on the diagram, from these two points, which are near the extreme opposite ends of the elevated system, the difference of potential gradually drops to zero, except that a portion of the distance a difference of one-thirtieth of a volt is maintained by an escaping incandescent low voltage current. This drop in potential is in a large degree caused by the numerous paths offered for the current to leave the struc-

ture by the supporting columns, the iron work of which extends below the surface of the street, also the water and other pipes which are run into the station and are connected with it. The difference of potential between the elevated structure and the metal objects in the earth near it does not alone determine the amount of injury which may be caused by electrolysis. Difference of potential is only one of the elements necessary for the work of corrosion of metals. The damage is caused by, and is in proportion to, the amount of current which passes between the two metal objects, and the amount of current flowing between them is dependent upon the difference of potential, the length of time maintained, the distance they are from each other, and the character of the soil separating them.

The conditions of soil through which the current must pass to cause electrolysis of metal structures in the ground are so different that a danger line of difference of potential cannot be established, as a very small difference of potential between metals in some soils would work serious injury to one of them in a short time, while the same difference of potential maintained for an indefinite period between the metals through soils of another character, would cause no appreciable damage to either. In a number of instances, water pipe has been destroyed in from one to two years, where the difference of potential was two and one-half volts. A current of electricity, entering and flowing along a conductor, causes no damage to it; electrolytic action takes place at the point where the current leaves it. On the elevated structure this point would be at the base of the supporting columns, which are below the surface of the street and rest on mason work foundations. The tests made on the elevated structure show that there is only one point on the system where the difference of potential exceeds two volts. This is at the Brooklyn bridge.

After examination, I find that there has been no serious damage caused by electrolysis to the structure of the Manhattan Railway Company of the city of New York. To prevent damage to the supporting columns of this structure in the future, I make the following recommendation:

That the Manhattan Railway Company immediately put their structure in such condition that at no point will it be positive to other conductors in the ground more than one volt, and that this condition be maintained.

Respectfully yours,

C. R. BARNES,

Electrical Expert.

TABLE

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it between Chatham Square and bridge.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R. tracks, max.
Chatham Sq.....	181	9 40	Pos. 2/30	Pos. 1/30	Pos. 1/30
	176	10.00	Pos. 4/30	Pos. 5/30	Pos. 2/30
	172	10.25	Pos. 5/30	Pos. 3/30	Pos. 3/30
	168	10.45	Pos. 10	Pos. 15/30	Pos. 15/30
Park Row.....	154	11.05	Pos. 1 15/30	Pos. 1 5/30	Pos. 1 5/30
	145	11.30	Pos. 2 1/2	Pos. 2 8/30	Pos. 2 4/30

TABLE

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Second avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R. tracks max.
A. M.					
Division	1	9.15	Pos. 2/30	.....	.....
"	11	9.32	Neg. 1/30	Neg. 1/30	.....
"	18	9.46	Pos. 30	Neg. 1/30	.....
"	28	10.05	.....	Pos. 30	.....
Allen	35	10.20	Pos. 30	.....	Pos. 1/30
"	44	10.32	Pos. 30	.....	Pos. 30
"	54	10.50	Pos. 1/30	.....	.....
"	63	11.04	.....	Pos. 1/30	.....
"	72	11.20	.....	Pos. 1/30	Pos. 30
"	81	11.35	.....	Pos. 1/30	Pos. 30
"	92	11.50	.....	Pos. 30	Pos. 30
P. M.					
"	101	2.05	Neg. 1/30	.....	.....
2d	112	2.20	.....	Neg. 1/30	.....
5th	129	2.45	.....	Pos. 30	Neg. 1/30
8th	148	3.08	.....	.....	.....
10th	159	3.30	.....	.....	Neg. 30
12th	172	3.50	Pos. 1/30	Pos. 30	Neg. 30
14th	184	4.10	.....	Pos. 1/30	Pos. 1/30
16th	196	4.35	.....	Pos. 1/30	.....
A. M.					
19th	214	9.35	Pos. 2/30	.....	Pos. 30
22d	231	10.00	.....	.....	.....
23d	247	10.15	Neg. 1/30	.....	Neg. 30
26th	272	10.45	.....	Pos. 1/30	Neg. 1/30
30th	299	11.08	.....	.....	Neg. 1/30
33d	317	11.30	.....	.....	Neg. 1/30
P. M.					
34th	324	2.05	.....	.....	Neg. 1/30
37th	341	2.30	.....	.....	Neg. 30
40th	359	2.50	Pos. 30	.....	.....
43d	377	3.08	.....	Pos. 30	.....
46th	398	3.30	Pos. 1/30	.....	Neg. 1/30
48th	407	3.50	Pos. 1/30	.....	Neg. 30
51st	428	4.20	Neg. 1/30	Pos. 1/30	Neg. 1/30
A. M.					
54th	445	9.30	Neg. 30	Pos. 1/30	Neg. 1/30
56th	458	9.50	.....	.....	Neg. 2/30
59th	477	10.12	.....	.....	Neg. 1/30
62d	491	10.35	.....	.....	Neg. 1/30
65th	514	11.00	.....	.....	Neg. 1/30
68th	533	11.18	Pos. 1/30	.....	Neg. 1/30
70th	547	11.42	Pos. 1/30	Pos. 1/30	Neg. 1/30
P. M.					
73d	566	1.40	Pos. 1/30	Pos. 1/30	Neg. 1/30
76th	584	2.05	Pos. 2/30	Pos. 1/30	Neg. 30
79th	602	2.28	Pos. 2/30	Pos. 1/30	Neg. 30
82d	621	2.50	Neg. 30	.....	Neg. 1/30
85th	640	3.15	.....	Pos. 30	Neg. 2/30
88th	660	3.40	Pos. 1/30	Pos. 1/30	Neg. 1/30
91st	678	4.10	Pos. 1/30	Pos. 1/30	Neg. 1/30
A. M.					
95th	702	9.40	Pos. 2/30	Pos. 2/30	Neg. 30
97th	714	10.05	Pos. 1/30	Pos. 1/30	Neg. 1/30
99th	726	10.27	Pos. 1/30	Pos. 1/30	Neg. 1/30
102d	743	10.50	Pos. 1/30	Pos. 1/30	Neg. 1/30
106th	768	11.15	Pos. 2/30	Pos. 1/30	Neg. 1/30
110th	794	11.50	Pos. 1/30	Pos. 1/30	Neg. 1/30

TABLE—(Concluded)

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Second Avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R. tracks max.
P. M.					
113th	812	1.45	.....	.....	Neg. 1/30
116th	831	2.10	.....	.....	Neg. 2/30
119th	848	2.35	Pos. .30	.....	Neg. 1/30
121st	862	3.00	Pos. .30	.....	Neg. 1/30
123d	870	3.20	Neg. 1/30	.....	Neg. 1/30
126th	889	3.45	Neg. 1/30	Pos. 1/30	Pos. .30
128th	903	4.10	.....	.....	Neg. 1/30
A. M.					
133d	53	9.40	Pos. 2/30	Pos. 2/30	Neg. 3/30
134th	60	10.05	Pos. 2/30	Pos. 1/30	.....
138th	88	10.32	Neg. 2/30	Neg. 3/30	.....
140th	102	10.55	Neg. 2/30	Neg. 1/30	.....
144th	129	11.20	Neg. 1/30	Neg. 2/30	.....
145th	137	11.32	Neg. 1/30	Neg. 2/30	.....
148th	158	11.50	Neg. 2/30	Neg. 3/30	.....
P. M.					
150th	176	1.50	Neg. 2/30	Neg. 2/30	.....
153d	199	2.18	Neg. 4/30	Neg. 3/30	.....
156th	218	2.40	Neg. 4/30	Neg. 5/30	.....
158th	231	3.05	Neg. 4/30	Neg. 5/30	.....
161st	249	3.26	Neg. 3/30	Neg. 2/30	.....
164th	277	3.45	Neg. 1/30	Pos. 2/30	.....
166th	300	4.00	Neg. 1/30	Pos. 2/30	.....
169th	347	4.25	Pos. 2/30	Pos. 1/30	.....
173d	429	4.40	Neg. 2/30	Neg. 2/30	.....
177th	484	5.10	Neg. 2/30	Neg. 2/30	.....

TABLE

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Third Avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	E. R. tracks max.
A. M.					
91st	805	9.40	.....	.....	.....
94th	822	10.20	Neg. 1/30	.....	Neg. 2/30
97th	842	10.50	Pos. 1/30	.....	Neg. 2/30
99th	854	11.20	.....	.....	Neg. 2/30
102d	870	11.45	.....	.....	.....
105th	890	12.05	.....	.....	Neg. 1/30
P. M.					
108th	907	2.15	Pos. .30	Neg. 1/30	Neg. 2/30
110th	918	2.35	.....	.....	Neg. 2/30
113th	937	3.00	.....	Neg. 1/30	Neg. 2/30
116th	955	3.25	.....	.....	Neg. 2/30
119th	973	3.55	.....	Neg. 2/30	Neg. 2/30
123d	995	4.20	Pos. 1/30	.....	Neg. 2/30
126th	1015	4.50	Neg. 1/30	Neg. 1/30	Neg. 2/30
129th	1029	5.10	Neg. 1/30	.....	Neg. 2/30
A. M.					
58th	610	9.40	.....	.....	Neg. 1/30
60th	625	10.20	.....	.....	Neg. 1/30
63d	641	10.50	Pos. .30	Pos. .30	Neg. 1/30
66th	656	11.25	.....	.....	Neg. 1/30
69th	675	12.10	Pos. .30	Pos. .30	Neg. 1/30
P. M.					
72d	693	2.15	.....	.....	.....
75th	709	2.45	.....	.....	Neg. .30
79th	732	3.20	.....	Pos. 1/30	.....
81st	746	3.45	Pos. 1/30	Pos. 1/30	Neg. 1/30
83d	758	4.10	.....	.....	Neg. 2/30
85th	770	4.30	.....	.....	Neg. 1/30
88th	788	5.05	.....	.....	Neg. 1/30
A. M.					
32d	447	9.30	Pos. 1/30	.....	.....
34th	458	9.55	.....	.....	.....
35th	463	10.20	.....	.....	Neg. 1/30
36th	472	10.45	.....	.....	Neg. 1/30
38th	485	11.05	.....	.....	.....
40th	497	11.35	.....	Pos. 1/30	.....
42d	508	12.05	.....	.....	Neg. 1/30
P. M.					
44th	523	2.15	.....	.....	Neg. 1/30
46th	535	2.45	.....	.....	Neg. 1/30
48th	547	3.15	.....	.....	Neg. 1/30
50th	558	3.45	Pos. 1/30	Pos. 1/30	.....
52d	571	4.10	Pos. 1/30	Pos. 1/30	.....
54th	584	4.35	.....	Pos. 1/30	Neg. 1/30
56th	596	4.55	.....	Pos. 1/30	Neg. 1/30
A. M.					
E. Houston	251	9.30	.....	.....	Neg. .30
2d	267	9.47	.....	Neg. 2/30	Neg. 1/30
4th	279	10.05	.....	.....	Neg. 1/30
6th	291	10.23	.....	.....	Neg. 1/30
Astor Place	301	10.48	.....	.....	Neg. 1/30
10th	313	11.05	.....	Pos. .30	.....
12th	324	11.23	.....	Pos. .30	Neg. .30
14th	339	11.45	.....	.....	Neg. 1/30
P. M.					
16th	351	2.15	.....	.....	Neg. 2/30
18th	362	2.32	.....	.....	Neg. 2/30
20th	374	3.05	Pos. 1/30	.....	Neg. 1/30
22d	386	3.27	Pos. 1/30	.....	Neg. 1/30
24th	399	3.48	Pos. 1/30	.....	Neg. 1/30

TABLE—(Concluded)

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Third Avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R. tracks max.
26th	411	4.05	.....	.....	Neg. 1/30
28th	423	4.25	.....	.....	Neg. 1/30
30th	435	4.46	.....	Pos. 1/30	Neg. 1/30
A. M.					
New Chambers	130	9.15	Neg. 2/30	Neg. 1/30	.....
James	147	9.42	Neg. 2/30	Neg. 2/30	.....
Chatham Sq.	153	10.00	Neg. 1/30	Neg. 1/30	1/30
University	165	10.18	.....	.....	.....
Canal	180	10.35	.....	Neg. 2/30	.....
Grand	202	10.57	.....	Pos. 2/30	.....
Delancy	219	11.25	.....	Neg. 1/30	Neg. 1/30
Prince	236	11.48	.....	Neg. 1/30	Neg. 1/30
P. M.					
Franklin Sq.	113	2.15	Neg. 1/30	.....	Neg. 1/30
Ferry	104	2.42	Neg. 30	.....	Neg. 1/30
Pearl	90	3.00	Neg. 30	.....	.....
Maiden Lane	72	3.23	Neg. 30	.....	.....
Wall	58	3.48	.....	.....	.....
Old Slip	44	4.10	Neg. 1/30	.....	.....
Front	25	4.29	.....	Neg. 1/30	.....
"	14	4.42	Pos. 1/30	Pos. 1/30	.....
"	9	5.00	.....	.....	.....

TABLE

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Sixth Avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R. tracks max.
		A. M.			
Vesey.....	47	9.40	.....	.....	Pos. 2/30
Fulton and Church.....	44	10.00	.....	.....	Pos. 2/30
Dey and Church.....	39	10.20	Pos. .30	.....	Pos. 1/30
Cortlandt.....	32	10.35	.....	.....	Pos. 1/30
Liberty.....	29	11.00	.....	.....	Pos. 1/30
Cedar.....	27	11.15	.....	.....	Neg. 1/30
Rector.....	18	11.32	.....	.....	Pos. 2/30
Morris.....	1	11.50	Pos. .30	.....	Pos. 2/30
Bleecker.....	193	9.30	.....	.....	Pos. .30
Prince.....	167	9.55	Pos. .30	.....	Pos. .30
Spring.....	154	10.15	.....	.....	.....
Broome.....	141	10.32	.....	.....	.....
Grand.....	133	10.50	.....	.....	.....
Canal.....	124	11.05	.....	.....	.....
Lispenard.....	119	11.30	.....	.....	Pos. 1/30
Walker.....	114	11.45	.....	.....	Pos. .30
White.....	109	12.05	.....	.....	Pos. .30
		P. M.			
Franklin.....	105	1.40	Pos. .30	.....	Pos. .30
Leonard.....	101	1.55	.....	.....	Pos. .30
Worth.....	96	2.17	.....	.....	Pos. 1/30
Duane.....	88	2.35	.....	.....	Pos. 2/30
Chambers.....	79	2.52	.....	.....	Pos. 3/30
Warren.....	75	3.05	.....	.....	Pos. 3/30
Murray.....	61	3.30	.....	.....	Pos. 3/30
Park place.....	56	3.47	.....	.....	Pos. 2/30
Barclay.....	52	4.10	.....	.....	Pos. 3/30
		A. M.			
40th.....	460	9.30	.....	.....	Neg. .30
37th.....	439	9.58	Pos. .30	.....	.....
34th.....	419	10.24	.....	.....	.....
33d.....	411	10.39	Pos. .30	.....	Neg. .30
31st.....	400	10.55	.....	.....	Neg. .30
28th.....	381	11.20	Pos. .30	.....	Pos. 1/30
25th.....	364	11.45	Pos. .30	.....	.....
		P. M.			
22d.....	343	1.40	Pos. .30	.....	.....
18th.....	320	2.15	.....	.....	Neg. 1/30
14th.....	294	2.40	Pos. .30	.....	Neg. .30
11th.....	277	3.00	.....	.....	Neg. 1/30
8th.....	264	3.23	Pos. .30	.....	Neg. 1/30
4th.....	241	3.42	.....	.....	Neg. .30
W. 3d and McDougall.....	224	4.00	Pos. 1/30	.....	.....
W. 3d and W. Broadway.....	208	4.25	.....	Pos. 1/30	Pos. .30
		A. M.			
71st.....	738	9.50	.....	.....	Neg. 1/30
68th.....	722	10.15	.....	Neg. 1/30	Neg. .30
66th.....	710	10.33	.....	Neg. .30	Neg. .30
62d.....	686	11.00	.....	.....	Neg. 1/30
58th.....	661	11.28	.....	Neg. .30	Neg. .30
55th.....	644	11.55	Pos. .30	Neg. 1/30	Neg. 1/30
		P. M.			
53d.....	635	1.40	.....	.....	Neg. .30
Corner 8th and 6th avenue.....	40	2.05	.....	.....	Neg. 1/30
Corner 6th avenue and Broadway.....	28	2.26	.....	Pos. .30	Pos. .30
Corner 6th ave. and 7th ave.....	19	2.45	.....	.....	Pos. .30
Fifty-third street and 6th ave.....	539	3.18	.....	.....	.....
49th.....	516	3.40	.....	.....	Pos. .30
45th.....	491	4.05	.....	.....	Neg. .30
42d.....	474	4.39	.....	.....	Neg. 1/30
114th.....	1,017	10.05	Pos. 1/30	.....	Neg. .30
111th.....	1,001	10.28	Pos. 1/30	.....	Neg. 1/30
109th.....	976	10.47	.....	.....	Neg. 1/30

TABLE—(Concluded)

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Sixth Avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R. tracks max.
106th.....	967	11.06	Neg. .30	.....	Neg. 1/30
102d.....	980	11.30	Neg. .30	.....	Neg. 1/30
99th.....	912	11.54	.....	Neg. 2/30	Neg. 1/30
P. M.					
96th.....	894	1.30	.....	Neg. 1/30	Neg. 1/30
98d.....	874	1.55	.....	Neg. 1/30	Neg. 1/30
91st.....	861	2.17	.....	.....	Neg. .30
88th.....	842	2.40	.....	.....	Neg. 1/30
86th.....	822	3.05	.....	.....	Neg. .30
81st.....	798	3.22	.....	.....	.....
78th.....	780	3.50	.....	.....	.....
74th.....	756	4.25	.....	.....	Neg. 1/30
A. M.					
159th.....	1,278	9.45	Pos. .30	Neg. .30	Pos. 2/30
156th.....	1,261	10.07	Pos. 2/30	.....	Pos. 2/30
153d.....	1,239	10.25	Pos. 1/30	.....	Pos. 2/30
150th.....	1,222	10.48	Pos. 1/30	.....	Pos. 2/30
147th.....	1,205	11.06	Pos. 1/30	.....	Pos. 1/30
144th.....	1,192	11.23	Neg. 1/30	.....	Pos. 1/30
141st.....	1,174	11.45	.....	.....	Pos. 1/30
P. M.					
138th.....	1,151	2.00	.....	.....	Pos. 1/30
135th.....	1,132	2.23	.....	.....	Pos. 1/30
131st.....	1,108	2.57	Pos. 1/30	.....	Pos. 1/30
127th.....	1,090	3.30	Pos. 1/30	.....	Pos. .30
124th.....	1,068	3.55	.....	.....	Neg. .30
121st.....	1,049	4.24	Pos. 1/30	.....	Neg. .30
117th.....	1,033	4.50	Pos. 1/30	.....	Neg. .30

TABLE

Showing maximum difference of potential between the Manhattan Railroad Company's elevated structure and the water and gas pipes and surface railroad tracks near it on the Ninth Avenue line.

STREETS.	No. column.	Time.	Water max.	Gas max.	R. R tracks max.
A. M.					
50th street station	616	9.30	.....	Pos. 1/30	.....
47th	595	10.00	Pos. 1/30	.....	.....
44th	574	10.30	.....	Neg. 1/30	.....
41st	552	10.55	Pos. 1/30	.....	.....
38th	534	11.20	Pos. 1/30	.....	.....
35th	516	11.45	.....	Pos. 1/30	Neg. .30
33d	501	12.10	Neg. .30	Pos. .30	.....
P. M.					
31st	489	2.10	.....	.....	Neg. .30
28th	469	2.35	.....	Pos. 1/30	.....
24th	447	2.55	.....	.....	Pos. .30
22d	430	3.25	.....	Pos. .30	Pos. .30
20th	417	3.40	Neg. 1/30	.....	Pos. .30
18th	403	4.00	.....	.....	Pos. .30
15th	380	4.30	.....	Pos. .30	Pos. .30
12th	356	4.50	.....	Pos. 1/30	Pos. 1/30
A. M.					
Horatio	350	9.40	Neg. .30	Pos. .30	Pos. .30
Jane	345	10.00	Neg. .30	Pos. 1/30	Pos. .30
Bethune	333	10.25	Pos. .30	Pos. .30	Pos. 1/30
Banks	327	10.40	.....	Pos. .30	Pos. 1/30
W. 11th	321	11.05	Pos. .30	Pos. 1/30	Pos. 1/30
Perry	312	11.20	Pos. .30	Pos. .30	Pos. .30
Charles	307	11.40	.....	Pos. .30	Pos. .30
W. 10th	301	11.55	.....	Pos. 1/30	Pos. .30
P. M.					
Christopher	296	2.10	.....	Pos. .30	Pos. .30
Barrow	286	2.25	Pos. 1/30	.....	Pos. 1/30
Morton	281	2.50	Pos. .30	.....	Pos. .30
Leroy	273	3.15	Pos. .30	.....	Pos. .30
Clarkson	267	3.35	.....	.....	Pos. .30
W. Houston	259	3.50	.....	Neg. .30	Neg. .30
King	252	4.10	.....	Neg. 1/30	Neg. 1/30
Charlton	245	4.25	.....	Neg. .30	Neg. .30
Vandam	237	4.40	.....	Pos. 1/30	.....
A. M.					
Spring	231	9.15	.....	Pos. 1/30	.....
Canal	218	9.30	.....	Pos. .30	Pos. 1/30
Deebrasses	208	9.55	Pos. .30	Pos. .30	Pos. .30
Vestry	202	10.15	Pos. 1/30	Pos. .30	Pos. .30
Laight	198	10.25	Pos. .30	Pos. 1/30	Pos. .30
Hulburt	191	10.40	.....	.....	Pos. .30
Beach	185	10.55	.....	.....	Pos. 1/30
N. Moore	179	11.10	.....	.....	Pos. .30
Franklin	173	11.25	.....	.....	Pos. .30
Jay	160	11.40	.....	.....	Pos. .30
Duane	154	11.55	.....	Pos. .30	Pos. .30
P. M.					
Reade	149	2.10	Neg. .30	Neg. .30	Pos. 1/30
Warren	139	2.25	Pos. .30	.....	Pos. .30
Murray	132	2.40	.....	.....	.....
Park place	127	3.05	.....	Neg. .30	.....
Barclay	122	3.20	Pos. .30	Pos. .30	Neg. .30
Vesey	116	3.35	Neg. .30	.....	.....
Fulton	111	3.55	Neg. .30	Neg. .30	Pos. .30
Dey	105	4.10	Pos. .30	.....	Pos. .30

It is not found practicable to print here a copy of the diagram referred to in the report of the electrical expert. Copies of these reports were sent to the Manhattan Railway Company, with a letter making the recommendations of the inspector and of the electrical expert the recommendations of this Board. The company informed the Board: "That owing to the action lately taken by the bridge authorities the difference of potential at the only point on the road exceeding one volt has now been reduced, and it is believed, that further steps shortly to be taken will reduce the difference of potential to the limits desired by the commission. The recommendations of the inspector of the Board as to the physical condition of the structure, are being complied with and the work is in progress."

SPECIAL REPORT OF THE INSPECTOR OF HIS INSPECTION OF THE
BENNINGTON AND HOOSICK VALLEY ELECTRIC RAILWAY.

(Inspected October 2, 1899.)

The Bennington and Hoosick Valley Railway extends from Bennington, Vermont, to Hoosick Falls, N. Y., a distance of 16½ miles, 8 miles of which is in the State of New York. The road passes through the villages of East Bennington, Yellow River, Bennington Falls, Hendersonville, Walloonsac and North Hoosick; it is single track, 4 feet 8½ inches gauge, and all within New York State and is laid with 50 and 60 pound steel rail, T pattern. The ties, oak, cedar and chestnut, are 6 x 7 inches and 7 to 8 feet in length; 13 are laid to a 30-foot rail. The rails are connected by angle plates 24 inches in length, with four bolts. Commencing at the State line, the track is laid upon the side of the highway to Butchers Bridge, thence upon private right of way to a junction with the highway north of Walloonsac, from which place to the terminus at Hoosick Falls upon the side or center of highways and streets. The track frequently crosses the traveled roadway at grade. At nearly all such crossings unobstructed view of approaching cars can be had when nearing the track upon the highway. Where the track passes under the Fitchburg Railroad, near the State line, it crosses the traveled road and the view is obstructed by the railroad embankment to quite an extent. At North Hoosick there is another crossing where the view is somewhat obstructed. The track crosses at grade on River street, in the village of Hoosick Falls, the west-bound main track and three sidings of the Fitchburg Railroad. The grade descends toward the Fitchburg tracks, from both directions, about 8 feet in a distance of 300 feet, and for 50 feet on the north side of the crossing the grade is approximately 7 per cent. The Fitchburg track is straight for about one-third of a mile east, and one-half of a mile west, but view of approaching trains is obstructed by buildings and coal sheds near the track and by cars

left standing upon the sidings. All electric cars stop and the conductor goes ahead and sees that no train is approaching before crossing. Taking all the conditions at and about this crossing into consideration, your inspector thinks it sufficiently dangerous to require more than ordinary protection. This roadway or street appears to be extensively used by the public for trucking, driving, etc. The expense of carrying the roadway over the Fitchburg tracks on a bridge would not be excessive, and appears to be the better way to eliminate this dangerous grade crossing. The curves on the electric road are very frequent and sharp, many of 50 feet radius; they are fairly lined, but the elevation of the outer rail is not regular and in some cases there is no elevation. This is, however, being corrected. The grades are excessively steep—up to 10 per cent.—with frequent and abrupt changes to conform as nearly as possible to the surface of the streets and highways upon which the track is laid. Where the track is upon private right of way, the cuts are narrow, with little or no ditches. The embankments are also narrow, and many of them not up to grade. The cuts should be widened and properly ditched. Embankments should be reinforced and raised to grade. The general surface of the track is very fair for speed maintained; the maximum speed is 15 miles per hour. There is very little ballast used, and much of the track has apparently no ballast. The bridges are iron, in good condition and well painted. Ties on most bridges are spaced 24 feet center to center and without guard timbers. The approaches to, and the bridge over the Bennington Branch of the Fitchburg have ties so spaced and no guard timbers. The track is on a sharp curve, and a standard floor with guard timbers is especially necessary at this place. Two bridges have had regular standard floors put on, with ties 18 inches, center to center, with good substantial guard timbers, and the others are to have similar floors. The company has 7 closed and 7 open cars; 3 of them have Walker equipment, and balance Westinghouse. All cars have hand brakes; they are heated and lighted by electricity and have electric headlights. The power is obtained from the Hoosick Falls Power and Light Company. One foreman and seven laborers are employed upon the track. There are signs of recent improvements in its condition, and the management advise that many more are to be made as rapidly as possible.

Recommendations.—That the cuts be widened and ditched; that the embankments be reinforced and raised to grade; that the track be ballasted and the alignment and surface improved; that steep grades be reduced, whenever practicable; that guard timbers be maintained on all bridges, and ties spaced not more

than 18 inches, center to center; that a flagman and gates be maintained at the grade crossing of the Fitchburg Railroad, in Hoosick Falls.

Respectfully submitted,

J. D. SHULTZ,

Inspector.

A report by the electrical expert as to the physical condition of this railway will be found at page 406 of the first volume of the report of this Board for 1898.

A copy of the above report of the inspector was sent to the company, with a letter making the recommendations of the inspector the recommendations of this Board and calling attention to the report of 1898, a copy of which was in 1898 transmitted to the company. The company replied, stating that it had complied with the recommendations of 1898, except so far as prevented by flood and wind; that part of the recommendations in the report of this year had been complied with and that the rest would be, except so far as the erection of gates or stationing of flagman at the crossing of the Fitchburg Railroad is concerned, to which recommendation the company objected. The matter of gates or flagman is pending at the time of writing this report.

SPECIAL REPORT OF THE INSPECTOR AS TO FIRES COMMUNICATED FROM LOCOMOTIVE ENGINES ON THE ROME, WATERTOWN AND OGDENSBURG DIVISION OF THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.

September 25, 1899.

As directed by your Honorable Board, I have made a trip over the Rome, Watertown and Ogdensburg Division of the New York Central and Hudson River Railroad to observe the effects of the fires set by locomotives along that road, and herewith respectfully submit the following report:

The larger part of the railroad company's right of way has been burned over, and in a great number of places the fires have extended to the adjoining lands, sometimes burning over a very small territory, but frequently running over many acres. Between Lyons Falls and Clayton stations, a distance of approximately 65 miles, eighty-five places were noted where recent fires starting from alongside the railroad track had burned outside the company's right of way, upon private property. In most cases the territory burned over is small and the damage done comparatively little. Some fires, however, have extended over from 10 to 100 acres or more, burning fences, forests, and, in mucky land, burning the soil, causing permanent injury. Between Castorland and Deer River stations, for a distance of nearly two miles, a strip nearly a half mile in width has been entirely burned over, and the soil burned so that the cedar and other

timber growing there is uprooted and destroyed. Between Harrisville and Newton Falls stations, a distance of about twenty-three miles, fires have burned through forests and partially cleared lands much of the way.

All the fires along the railroads do not originate from the locomotives. Careless hunters and fishermen cause many of these, as is evident from the fact that fires were observed in the forests far from any railroad. The right of way has been generally burned over by the trackmen clearing up dry grass, brush and weeds. Some of these fires have spread to adjoining property. Other fires are set by farmers clearing land. The setting of fires along the track is not confined to any particular railroad. Inflammable materials, such as dry grass, brush and weeds, have been generally burned this season along nearly all railroads in this State.

Your inspector examined the screens in the stacks and also the fire-boxes of ten locomotives running on the Rome, Watertown and Ogdensburg road, through the territory where the largest number of fires have occurred. The openings in the screens of the stacks were found to be about one-fourth inch square (same as used generally), and no defective screens or fire-boxes were discovered. Fire-boxes are examined daily and the screens as often as once a week. Nearly all fires set by locomotives are by sparks from the stacks. Locomotive engineers and master mechanics generally agree that if the meshes of the screens in the stacks of the locomotives are reduced in size it will greatly reduce the steaming capacity. It would, therefore, be impracticable.

Would respectfully recommend that some means be taken, if possible, to prevent locomotives scattering fire, and if this cannot be done, that in all cases of extreme drought the railroad companies be required to have the track patrolled by sufficient men equipped with proper appliances for putting out the fires thus caused and preventing their spreading.

Very respectfully,

J. D. SHULTZ,

Inspector.

SPECIAL REPORT OF THE INSPECTOR ON BLOCKING FROGS, GUARD RAILS AND SWITCHES ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD.

September 30, 1899.

I find that the New York Central and Hudson River Railroad Company is extensively engaged putting foot guards in all frogs, guard rails and switches, not only in the West Albany yard, but

over the entire road. It is being done by inserting wedge-shaped wooden blocks in the openings, about two and one-half inches in thickness, and of sufficient length to prevent a person getting their foot caught. This work, I understand, is to be continued until all are blocked. The set of foot guards furnished by Commissioner Baker, to be used in the Albany yard, were put in late last fall and soon afterwards removed during heavy snow storms, and I have been unable to find them or to get report as to their effectiveness. The foot guards now being put in are inexpensive, easily replaced when necessary, and will afford the protection desired.

Respectfully yours,

J. D. SHULTZ,

Inspector.

STREET SURFACE RAILROADS.

REPORT OF THE ELECTRICAL EXPERT OF HIS INSPECTION OF THE ITHACA STREET RAILWAY.

September 22, 1899.

I have made an inspection of the Ithaca Street Railway, and beg leave to submit the following:

The system consists of five and three-tenths miles of single track with turnouts. The main line extends from the Lehigh Valley depot on West Buffalo street to the Library building of the Cornell University, on the Campus, a distance of 2.66 miles. One branch extends from the main line at the corner of Oak avenue and Heustis street to the Lehigh Valley station at East Ithaca, near the city line, a distance of 60-100ths of a mile; another extends from the main line at the corner of State and Tioga streets to Renwick Park, a distance of two miles.

The main line is constructed through the following streets: West Buffalo street, West Port street, State street, Eddy street; thence through private right of way of the Cornell University to the Library building.

The East Ithaca branch extends from Heustis street along Oak avenue, thence through private right of way to Dryden road, to the East Ithaca station of the Lehigh Valley.

The Renwick Park branch extends from the junction of State and Tioga streets through North Tioga street to Fall creek; thence through private right of way to the terminus at Renwick Park.

An extension to the system is being constructed from the end of the main line on the Campus, opposite the residence of Andrew D. White, and when completed will form a loop, inter-

secting and connecting with the main line at Stewart avenue and State street. This line extends through the Campus, across the Fall creek gorge; thence through Cornell Heights and along Stewart avenue to the point of intersection. It will add two and seven-tenths miles to the system. The line is already being operated from the end of the main line on the Campus to the lower bridge across Fall creek, a distance of one and one-tenth miles.

The whole system is constructed with "T" rail. The main line from the Lehigh Valley depot on West Buffalo street to West Seneca street, 450 feet, is constructed with 54-pound "T" rail, laid in 1893; the rail is in good condition. From West Seneca street to the bridge over the canal inlet, 300 feet, 56-pound rail, laid in 1897; in good condition. From the bridge to Plain street, 2,250 feet, 45-pound rail, chair construction, laid in 1893; track and special work in poor condition. Plain street to Geneva street, 900 feet, 60-pound rail, laid in 1898; in good condition. Geneva street to Cayuga street, 525 feet, 45-pound rail, laid in 1893; in poor condition. Cayuga street to Tioga street, 600 feet, 56-pound rail, laid in 1897; rail in good condition, joints low. Tioga street to Aurora street, 300 feet, 45-pound rail, laid in 1893; in good condition, joints low and special work in poor condition. Aurora street to Eddy street, 2,400 feet, 60-pound rail, laid in 1893; in good condition. Eddy street to Cascadilla building, 1,650 feet, 62-pound rail, laid in 1899; in good condition. Cascadilla building to Heustis street, 525 feet, 56-pound rail, laid in 1893; rail in good condition, special work poor. Heustis street to East avenue (on Campus), 1,050 feet, 45-pound rail, laid in 1895; in fair condition. East avenue to Library building, 1,800 feet, 56-pound rail, laid in 1895; in fair condition.

East Ithaca line, from Heustis street to East Ithaca station, .60 of a mile, 45-pound rail, laid in 1893; in fair condition.

Renwick Park line, from State street on Tioga street to Railroad avenue, one mile, 45-pound rail, laid in 1893; rail in good condition; special work in poor condition and joints low. From Railroad avenue to Park terminus, 1 mile, 56-pound rail, laid in 1894; rail in good condition; ties in poor condition.

The street from the western terminus of the road at West Buffalo street to the D., L. & W. crossing is Macadam. From the D., L. & W. crossing to Plain street Medina stone. From Plain street to a point east of Aurora street, at the foot of East State street hill, a brick pavement is laid. From this point to Eddy street the pavement is Medina stone. Eddy street, from State street to Cascadilla building, is being paved with brick. From Tioga- and State streets, on the Renwick Park line, to Buffalo street (two blocks) there is a brick pavement.

On the main line, on the East Ithaca branch, and on the portion of the new extension already completed, there are numerous curves, the maximum curvature being 98 degrees, at the corner of State and Eddy streets. Nearly all the curves are protected with guard-rails.

Commencing at Aurora street there is a continuous grade ascending to the terminus at the Campus, a distance of 1.61 of a mile, with a total rise of 444 feet to the highest point on the Campus. The grade is from 2 per cent. to a maximum of 11 per cent.

From the junction of the East Ithaca line with the main line at Heustis street to the depot terminus, the grade is ascending, the maximum being ten per cent., with a total rise from Aurora street to the depot of 484 feet.

The new extension is being constructed with 45-pound rail. It has several very heavy grades in both directions, the maximum of which is 12 per cent.

On the system, including the extension as far as completed, there are six bridges over waterways.

Over the canal inlet on West State street there is an iron truss swing-bridge, with a swing 60 feet long; it has an 18 foot road and a 4 foot sidewalk on the north side. The support for the swing is set on piles. The track is on the south side of the bridge, the flooring being flush with the top of rail. There is a 14 foot approach on either side constructed of wooden stringers set on piles. There is a 4 foot hand rail on either side of the bridge. There are no guard rails on the tracks. The pile supports of the turn table of the bridge are not in good condition. The approaches to the bridge are level with it.

Over the Cascadilla creek, near the junction of the main and East Ithaca lines, there is an iron under-truss bridge 140 feet long, 45 feet from high water to floor beams. The bridge rests on solid mason work foundations and abutments. The approach to it from the south is on a reverse curve, with a grade of 2 per cent. descending to the bridge. The north approach is on a tangent, with a grade of 3 per cent. descending to the bridge. It is protected with a wooden stringer 6 x 8 inches, set on the ties, and also with 45-pound guard rails. A wire netting extends from the ties 2 feet horizontal and 4 feet perpendicular. This is intended as a fender for a person who might fall from a car, there being no hand rails on the bridge. The bridge was built in 1894, is in good condition and no further protection is necessary.

The bridge over Fall creek, from the Campus to Cornell Heights, is of steel under-arch construction, 210 feet long and 34 feet wide, built by the Groton Bridge Co. in 1898, and guaranteed to 3,000 pounds per foot. The height from high water to the floor beams

is 110 feet. It has a 5-foot sidewalk on either side, raised 9 inches above the roadway, with a 9-inch girder. A single track is laid in the center of the roadway, with rails 3 inches above the flooring. A chamfered plank is laid on the outside of the rails and is flush with it at the top. The space between the rails is planked with 3-inch planking, rabbited at the ends to allow for wheel flange. There is a 3-foot iron hand rail on the outside of each sidewalk. The south approach to the bridge is at the foot of a long grade and on a curve. The north approach is on a curve, with a slight grade ascending to the bridge. The construction of the track on the bridge is such that it adds to the liability of derailment of the car; and if this should occur, the car might run against the 9-inch iron riser of the sidewalk. Whether this riser would prevent a car from going through the iron railing and off the bridge would depend, of course, upon the speed of the car and other conditions.

The bridge over Fall creek, from Cornell Heights to Stewart avenue, is a steel under-truss bridge, 130 feet long and 27 feet wide, built by the Owego Bridge Co. in 1899. There is a 5-foot sidewalk on the east side and a 15-foot roadway between the sidewalk and the rail. The walk is 9 inches above the flooring on a 9-inch girder riser. A single track of 45-pound rail is laid on the bridge, the west rail of which is 2 feet 4 inches from a 6 x 12 stringer on the west side of the bridge. On this stringer is an iron railing of light lattice work construction 2 feet 10 inches in height. The flooring of the bridge is laid flush with the top of the rail; it is planked between the tracks, the plank being rabbited for the flange of the car wheel. This construction also adds to the liability of derailment; and in this case there is nothing to prevent a car from going off the bridge but the 6 x 12 stringer and the light lattice hand rail.

The south approach to the bridge is on a curve, with a 2 per cent. grade ascending to the bridge. The north approach is also on a curve, with a 3 per cent. grade descending to the bridge. The floor beams are 130 feet above the water level. The bridge is of solid construction with mason work abutments and foundations and is of sufficient strength to carry the combined traffic of the highway and the electric road.

The bridge on the Renwick Park line over Fall creek is an iron overhead truss single span bridge, used exclusively as a railroad bridge. It was built by the Groton Bridge Co. in 1893. It is 105 feet long, with a single track and oak stringers 6 x 8 bolted on ends of ties. The abutments are of good mason work. The approach on either side is on a tangent, with slight up-grades to the bridge. It is in good condition and of sufficient strength to carry the loads passing over it.

The Renwick Park line extends over an iron stringer bridge over Cascadilla creek. It is 25 feet in length and in good condition.

The main line crosses the single track of the Delaware, Lackawanna and Western Railroad at grade near the canal inlet. On Fulton street it crosses at grade the Cayuga Lake branch of the Lehigh Valley Railroad. These crossings are about 100 feet apart. On private property, near Renwick Park, the line crosses at grade the single track of the Cayuga Lake Division of the Lehigh Valley.

The company has one power-house, which is located in the Fall Creek gorge. It is a wooden and stone building 100 x 260 feet; it has a rock foundation, wooden floors and ceilings, and has the following steam and water-power equipment: 1 McQueen engine, 350 H. P., 180 revolutions a minute; it is belted to counter-shaft; 2 boilers, 1 Root 220 H. P., 130 pounds pressure; 1 Manning 110 H. P., 100 pounds pressure, and 2 iron stacks; 2 water-wheels, 28 inches in diameter, 200 H. P. each, with rope connection to counter-shaft; 3 generators, 2 general electric 110 H. P. each, and 1 Mather 110 H. P. The generators are driven from shaft by belt with clutch connection. The engines, boilers and generators were installed in 1892; the boilers are inspected by insurance inspectors. It has switch-board of three-circuit capacity equipped with the usual ampere and volt meters and lightning arresters, with fuses instead of approved circuit breakers. There are three feeder circuits leading from the power-house. The dam for the water plant is 1,000 feet from the power-house; the water power is not steady the year round, it being ample about four months each year. The water flows to the power-house through a 5-foot flume and a 4-foot pipe, with a total fall of 96 feet.

The boilers, engines and generators are in fair condition. The water wheels are governed by an automatic wheel governor, which regulates the speed of the wheels and generators within a variation of 25 volts. The power-house and apparatus are in good condition. The fire protection consists of 50 feet of 3-inch hose, connected with the flume, and 75 feet of 1-inch hose, connected with the boiler pump.

In the power-house is also an engine that is used to run lighting generators; in case of accident this engine can also be used for railway purposes. The coal used is received at the Delaware, Lackawanna and Western station and carted from there to the power-house. The price of coal at the station is \$2.15, and cost of carting 84 cents.

There are two car barns, one located near State street and the other on the Renwick Park line near the city limits. The State street barn is a brick building with iron roof 40 x 125. It has four tracks, with a capacity of 12 cars, and pits under the tracks

the entire length of the building. It contains a shop, equipped with a lathe, forge, upright drill and other tools for rewinding armatures and making light repairs on cars and apparatus. It also contains a sand-dryer. The fire protection consists of 150 feet of 3-inch hose, connected with the city water works.

The Renwick Park barn is a wooden building 30 x 120 feet; it has three tracks with pits, and a capacity for 12 cars. Unused car bodies are stored in this barn. It has no fire protection. The company has 23 car bodies, 11 box and 12 open; 4 are vestibuled. There are 13 motor equipments; 7 cars are used as trailers. Three of the motor equipments are G. E. 800, two G. E. 1,000, six W. P. 50, and two Wightman. Two box cars of duplex pattern (open and closed combination) have recently been purchased. All the cars are equipped with ordinary hand spindle chain brakes. The motor cars have electric headlights and are lighted and heated by electricity. The cars have no fenders. The company has not complied with the order of your Board in reference to providing cars with red flags and lanterns.

Box cars Nos. 3, 5, 11 and 17 are equipped with sand boxes and emergency track brakes; open cars Nos. 10, 8, 16 and 12 are equipped with emergency brakes, but have no sand boxes. These cars I found in use on the main line and on the East Ithaca branch and are the same cars that are operated on the heavy grades and sharp curves. The duplex cars Nos. 21 and 23, which are occasionally used on the heavy grades, have neither sand boxes nor emergency brakes. Box car No. 19, which is operated on the Renwick Park line, is equipped with sand boxes, but has no emergency brake. The duplex cars have a seating capacity of 32, and are 34 feet over all. No. 1 box car is used as a baggage car; it is also used as a sand car in rainy weather and snow plow in the winter.

Length of cars over all:

Box.

No. 1.....	24 ft. 7 in.
No. 3.....	22 ft. 2 in.
No. 5.....	22 ft. 2 in.
Nos. 7, 9, 11, 13, 15.....	22 ft. 11 in.
No. 17.....	26 ft. 8 in.
No. 19.....	28 ft. 2 in.
Nos. 6, 8, 10, 12, 14, 16.....	23 ft. 8 in.
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Open cars Nos. 28, 30, 22 have.....	15 benches each.
Nos. 26, 20.....	10 benches each.
No. 24.....	8 benches.
Nos. 6, 8, 10, 12, 14, 16.....	7 benches each.

Six Bemis trucks have 6 by 6 wheel base.

One Bemis truck has 7-ft. wheel base.

Two Peckham trucks have 7-ft. wheel base.

Two Peckham trucks have 7-ft. 6 in. base.

One Brill truck has 7-ft. base.

The cars are clean, well painted and in good condition generally. The running gears and motor equipments are in fair condition. I found very few flat wheels. Cars are heated by American Co. heaters. The brake shoes are in good condition.

The emergency brake used on these cars is manufactured by the Windsor Brake Co., of Troy, N. Y. It is a rail shoe brake and is operated by the motorman or conductor releasing a catch that allows the shoe to drop on the track. The shoe is of wedge-shape construction and has an emery face that lays on the rail when in use. When in contact with the rail the point of the shoe is about 8 inches in front of the wheel; when on the track it is stationary, and remains so until the wheel rides upon it; then the shoe is drawn along the rail, carrying the wheel with it clear of the rail. Each car has four shoes, one on the outside of each wheel.

I tested these brakes on seven of the cars that were in operation on the main line and on the East Ithaca Branch on September 12, 1899, these being the cars that pass over the heavy grades and curves. The tests were made with passengers in the cars, therefore high speed was not attempted. The brakes on one end of the cars were tested on the 60-degree curve at the Cascadilla House, where the grade is 8 per cent. The track at this point is of 62-pound rail construction, 2½-inch face. The rails were dry at the time of the tests. The tests were made by bringing the car to a stop, then dropping the emergency brake and allowing the car to move backward down the grade and around the curve. The brakes on the other end of the car were tested in the same manner on the curve in the track leading to the library building, it being a 4 per cent. down grade.

The tests on the curve at the Cascadilla House are here designated as test No. 1. The tests on the other curve are designated as tests No. 2.

Test No. 1.

1. Box car No. 5 ran 500 feet, rounding the curve and running onto the straight track before the emergency brake caught under the wheel. After the test the brake could not be replaced in position.

2. Open car No. 10 ran back over 500 feet around the curve and onto the straight track. The shoe did not catch under the wheel on the test.

3. Box car No. 11; brake shoe did not drop on rail.
4. Open car No. 16; could not drop emergency brake. After this car returned from the end of the line it was again tested, and showed that the brake had been operated at the terminus of the line, as the brake on this test dropped onto the track, and after going 20 feet caught under the wheel and brought the car to a stop.
5. Open car No. 1. The shoe slid on the rail round the curve and onto the straight track without going under the wheel.
6. Open car No. 8. Same result as test No. 5.
7. Open car No. 12. The brake worked satisfactorily and stopped the car immediately.

Test No. 2.

1. Open car No. 12. Brake caught under wheel after going 20 feet and stopped car.
2. Car No. 11. Brake caught all right and stopped car.
3. Car No. 6. Brake caught all right and stopped car.
4. Car No. 10. Brake caught after car ran 30 feet.
5. Car No. 16. Brake would not drop on rail.
6. Car No. 8. Brake did not drop on rail.

These tests show that the brake had not received proper care and attention, as on the first tests the brake on only one of the cars did the work for which it is intended.

As will be seen, the brakes worked more satisfactorily on the second test, which may be accounted for by the fact that after the first test the cars were run to the end of the line, thus giving the motormen and conductors an opportunity to operate the brakes before the second test.

The condition in which these brakes were found is a very serious matter, as these cars are operated on a track which in about two miles has a rise of 484 feet, with numerous sharp curves, one with a maximum curvature of 98 degrees. The cars being equipped with the ordinary single chain hand brake, in case the chain or any part of this brake should give out, and the emergency brake fail to work as it did on nearly all the tests, the car could in no way be controlled while descending the grade. Under favorable conditions a car might slide down the hill, even with the wheel riding on the emergency brake.

Two accidents of this character have occurred, one before and one since the installation of the emergency brake.

In the fall of 1895, a car coming down State street hill got beyond control between Stewart avenue and the foot of the hill. The day was wet and many leaves had fallen on the rails. The wheels of the cars had ground these leaves into a sort of pulp

and made the rails slippery. While the car was descending the hill one passenger jumped and broke his leg. A baggage car was on the switch on State street between Tioga and Aurora streets. The passenger car ran into this car, and the motorman of the passenger car was slightly injured. None of the passengers were injured. Neither car left the track. Only hand brakes were used on the cars at this time.

On September 1, 1899, a passenger car coupled to a small car used for carrying gravel was in use on Eddy street. The car came round the curve at Cascadilla and stopped on Eddy to let off a number of laborers from the passenger car. The jar caused by their getting off started the wheels sliding. The motorman was unable to stop the car, and it started down the hill and rounded the sharp curve at State and Eddy streets. An up-bound car had stopped to let off passengers; it started to back down the hill. When near Stewart avenue the motorman, thinking that the motorman of descending car had gotten it under control, brought his car to a standstill. And before he could again start the car, the descending car ran into him. The motorman of the descending car was bruised. The headlights on both cars were broken, and the front platforms and dashboards jammed in. The motorman of the descending car dropped the emergency brake, but he does not know just at what point he dropped it. The emergency brakes were down when the car stopped. There were no brakes on the gravel car.

The western terminus of the main line of the company's system is at the Lehigh Valley depot, which is located one mile from the business portion of the town. The line also passes the Delaware, Lackawanna and Western station. Cars are so operated as to accommodate people going to and coming from these stations. The eastern terminus of the line is on the Campus. The present attendance at the University is about 2,000; a number of persons are permanently connected with the institution. The extension in the course of construction will pass through a desirable residence section of the city that is now being built up.

The terminus of the East Ithaca line is at the station of the Elmira and Cortland branch of the Lehigh Valley Railroad, about two miles distant from the business portion of the city. The electric cars are the only means of transportation to and from this depot. Renwick Park is located at the terminus of the Renwick Park line. Percy Field, which is the Cornell Athletic grounds, is located near Fall Creek on the Renwick Park line. Renwick Park has the usual summer resort attractions, and is the principal place of recreation for the City of Ithaca.

It is also the landing for boats on Cayuga Lake. The city of Ithaca has a population of about 14,000.

The organization of the company at present consists of a president, vice-president, secretary and treasurer. The total number of employees is 67, divided as follows: 19 motormen, 19 conductors, 1 inspector, 1 shop foreman, 2 shopmen, 1 night watchman, 1 car cleaner, 1 store keeper, 1 chief engineer of power house, 1 superintendent of power house, 3 engineers, 3 firemen, 1 helper, 1 track foreman, 6 trackmen, 1 book keeper, 1 stenographer, 1 park policeman, a park superintendent.

The engineers and firemen, in addition to the railway work, operate a portion of the apparatus of the electric light company. The 6 trackmen are not employed the year round. The superintendent of park and park policeman are not employed the whole year.

The maximum number of passengers carried on this system was 27,072, on May 30, 1899. The maximum number carried on the East Ithaca line was 3,404. The maximum number carried on the Renwick Park line was 16,071, on May 30, 1899.

The company does no freight or express business; it carries mail between the depot and the post office. Transfers are given to and from the different lines. A ten cent fare is charged on the East Ithaca line between East Ithaca and the business portion of the city; a transfer is accepted as a five cent payment of the fare. Twenty-one tickets are sold for a dollar. Tickets are also sold to the different athletic clubs, during the season, at the rate of three cents a ticket. No half fares are collected. Cars are started at 6 a. m. and run till midnight.

The Cornell Heights extension, a portion of which is now being operated, extends from the "Y" on the Campus and connects with the main line on State street, a distance of 10,947 feet. It is being constructed with 45-pound rail. On this line are a number of sharp curves and heavy grades in both directions, the maximum of which is 12 per cent. For a part of the distance the track is constructed on a side hill; the embankment on the lower side is 100 feet above the roadway at the foot of the hill. Guard rails are being put on the curve. The bank has not sufficient slope or shoulder.

On the East Ithaca line, from Aurora street to the terminus, a distance of 7,360 feet, there are several sharp curves and heavy grades, the maximum grade being 11 per cent. On this line, for a portion of the distance near the East Ithaca terminus, the poles and trees are so near the track as to be very dangerous, especially when passengers are allowed to ride on the side steps, as I found to be the practice during my inspection.

The use of 45-pound rail on heavy grades and sharp curves is not in the line of safety of operation or economy.

The conductors and motormen are well uniformed. I learned that nearly all are residents of the city, a large number of whom own homes there. I heard no complaints in reference to schedules. The physical conditions of the city are such that the safe operation of cars demands the utmost care on the part of the management and employees. The company has had no regularly appointed superintendent in charge of the road for the past two months.

RECOMMENDATIONS.

That the special work on the main line between the canal bridge and Plain street be renewed.

That the rail joints between Geneva and Tioga streets be raised.

That the rail joints between Tioga and Aurora streets be raised and the special work renewed.

That the special work between Cascadilla building and Heustis street be renewed.

That the rail joints between Tioga street and Railroad avenue on the Renwick Park line be raised; also, that the special work between these points be renewed.

That the ties between Railroad avenue and the end of the Renwick Park line be renewed.

That the high bank on the curves of the new extension be given more slope, and that the shoulder be widened.

That the poles on the East Ithaca line, where they are dangerously near the track, be moved; that the track should be moved further into the highway at the East Ithaca depot, where it is too near the trees for the safety of passengers.

BRIDGES.

That the approaches to the canal bridges on State street be reconstructed.

That the extra planking between the rails on the first bridge over Fall creek from the Campus be taken out and that guard-rails be placed between the traction rails.

That the rails on the bridge over Fall creek leading from Cornell Heights be raised four inches and guard-rails constructed.

That guard-rails be placed on the over-truss bridge on the Renwick Park line.

That a derail switch be placed in the tracks on Eddy street at the upper end of the turnout in the tracks on that street in such

a position that a car going on it would be taken to the corner of State street and up that street one hundred feet. That a derail switch be placed in the tracks on State street near the corner of Stewart avenue, so arranged to turn a car up Stewart avenue, but not on the proposed tracks to be constructed in that street.

That the emergency brakes be changed so that the point of the shoe when in position on the track will be within one inch of the wheel. All the emergency brakes should be immediately put in working condition and be thoroughly inspected and tested each day before leaving the barn. That the rear emergency brake should be down on the track in working position on all cars while ascending the grades. That when these brakes are in proper working order the company notify your Honorable Board that your expert may make a supplementary inspection of them. That all cars operated on the hill be equipped with double chain brakes, with double brake rods having separate connections to the brake-lever.

That fire protection be provided at the car barn on the Renwick Park branch at the city line.

That passengers should not be allowed to ride on side steps of cars; nor more passengers allowed on the front platform than can be seated.

That open cars Nos. 8, 10, 12, 16 and closed cars Nos. 21 and 23 be equipped with sand boxes. That cars Nos. 21 and 23, which are occasionally used on the hill, be equipped with emergency brakes.

That a superintendent or general manager of the company be at once appointed to take charge of the road.

That the company be directed to comply with the recommendations contained in the circular letter of your Board regarding the providing of red flags and lanterns for cars.

A copy of this report was sent to the company, with a letter making the recommendations of the electrical expert the recommendations of this Board. The company notified the Board that it would carry out the recommendations with all possible speed.

REPORT OF THE ELECTRICAL EXPERT AS TO GRADE CROSSINGS OF THE ITHACA STREET RAILWAY AND STEAM RAILROADS.

October 2, 1899.

I have made an inspection of the crossings at grade of the steam tracks in the city of Ithaca by the Ithaca Street Railway lines, and submit the following:

On State street the main line of the street railway crosses at grade the single track of the Cayuga branch of the Delaware,

Lackawanna and Western Railroad, and the single track of the Cayuga Lake branch of the Lehigh Valley Railroad. These crossings are both open and clear to view in either direction. Standing on either crossing a good view of the steam tracks can be had in either direction. Six passenger and two freight trains per day operate over the Cayuga Lake branch of the D., L. & W. R. R. The railroad station is located near the crossing, and all trains come to a stop at this point. Eight trains per day operate over the Cayuga Lake branch of the Lehigh Valley Railroad. The cars on the electric road are operated on a ten-minute schedule.

I find that the street railway company's rule that all cars shall come to a full stop fifty feet from the steam crossing and that the conductor shall go ahead onto the steam track and signal his car before crossing, is complied with.

These crossings should be protected by a copper trough placed over the trolley wire and in electric contact with it where it crosses the steam track.

The Renwick Park line of the street railway crosses at grade the single track of the Cayuga Lake branch of the Lehigh Valley Railroad on private property near Renwick Park. This is a diagonal cut crossing; the special work is in good condition. On the east side of the crossing there is a curve in the electric track; on the west side it is on a tangent. Standing on the electric tracks 50 feet from the crossing, on the east side, a view of the steam tracks can be had to the north for 100 feet, and to the south for 500 feet. On the west side, the view of the steam tracks is obstructed to the south by trees, and a view to the north can be had for over 2,000 feet. Standing on the steam tracks at the crossing a view of them can be had for over 2,000 feet in either direction. This crossing is 1,200 feet from the Park terminus of the electric car line.

There are eight regular trains per day operated over this branch of the Lehigh Valley, and cars on the electric line are operated on a ten-minute schedule. This crossing should be protected by derails in the electric tracks on either side of the crossing, to be operated by the conductors of the electric cars, and a copper trough should be placed over the trolley wire and in electric connection with it.

A copy of this report was sent to the company, with a letter making the recommendations of the electrical expert the recommendations of this Board. The company informed the Board that it was proceeding to carry out the recommendations made by the Board in reference to its railroad.

REPORT OF THE ELECTRICAL EXPERT AS TO GRADE CROSSINGS OF
THE BINGHAMTON STREET RAILROAD AND THE DELAWARE, LACKA-
WANNA AND WESTERN AND ERIE RAILROADS.

January 4, 1899.

I have made an inspection of the crossings of the Binghamton Street Railway Company's tracks with those of the steam roads, and find that they cross at grade steam road tracks at two different points in the city of Binghamton.

On Chenango street the tracks of this company cross the double tracks of the Delaware, Lackawanna and Western Railroad Company, also the double tracks of the Erie Railroad Company, which are constructed near to and parallel with each other. This crossing is protected by gates, and there are derail switches in the electric company's tracks, but these are not operated. I do not recommend that they be put in use, as a derail in the electric tracks would not add to the safety of this crossing.

On Robinson street the single track of this company crosses at grade three tracks of the Syracuse and Binghamton Railroad Company, two of which are main line tracks, and one a branch; also, two tracks of the Delaware and Hudson Company, one a main line, the other a branch track. The Syracuse and Binghamton Railroad Company maintains a flagman at this point at all hours of the day. The Delaware and Hudson Railroad Company have a flagman at this crossing who is on duty from seven in the morning until eight in the evening.

Cars are operated over this branch of the Binghamton Street Railroad Company's line on a 40-minute headway. There is a considerable amount of switching done on the tracks of the Syracuse and Binghamton Railroad, over this crossing. For the better protection of street car traffic at this point, I would recommend that your Honorable Board direct the Binghamton Street Railroad Company to place over its trolley wire at this crossing an inverted V-shaped copper trough. This trough to be connected with the trolley wire, so as to be in circuit with it.

A copy of this report was sent to the Binghamton Railroad Company, with a letter recommending that it place over its trolley wire, at its Robinson street crossing, an inverted V shaped copper trough, this trough to be connected with the trolley wire so as to be in circuit with it.

IN THE MATTER OF THE REPORT OF THE ELECTRICAL EXPERT OF
THIS BOARD AS TO CROSSINGS OF THE BROOKLYN CITY RAILROAD
(OPERATED BY THE BROOKLYN HEIGHTS RAILROAD COMPANY) AND
STEAM RAILROADS.

I have made an inspection of the steam and electric crossings on the Brooklyn City Railroad Company's system and submit the following:

On Flushing avenue the double tracks of the Brooklyn City Railroad Company cross the single track of the Bushwick branch of the Long Island Railroad Company. Standing on the electric track looking east the view is obstructed in either direction. Looking west, a good view of steam tracks can be had to the north; the view of them to the south is obstructed. Standing on the steam tracks, a view to the south can be had for 1,000 feet; to the north for 800 feet. There is a curve in the steam tracks on either side of the crossing. There is a slight grade in the street from the steam tracks in either direction. This is a cut crossing with special work in fair condition. The maximum number of trains operated over the steam tracks during twenty-four hours is 48; minimum, 30. Cars on the electric road are operated on a $3\frac{1}{2}$ minute minimum and 30 minutes maximum headway. This crossing is protected by gates operated by man on the ground at all hours of day and night. It should be protected by derailling switches and signal on the electric tracks interlocked with home and distant signal on the steam road.

On Flushing avenue the double tracks of the Brooklyn City Railroad Company cross the double tracks of the South Side Division of the Long Island Railroad Company. From the electric tracks looking east, the view of this crossing is obstructed in either direction. Looking west, a view of the steam tracks can be had for 800 feet to the north and 300 to the south. Standing on the crossing a view of the steam tracks can be had 1,000 feet to the north and 1,500 to the south. There is a curve in the steam tracks through a cut commencing 1,000 feet north of the crossing. This is a cut crossing with special work in good condition. The maximum number of trains operated over steam road is 224 and the minimum 131 in twenty-four hours. Cars are operated over the electric tracks on a maximum headway of 30 minutes and a minimum of $3\frac{1}{2}$ minutes. This crossing is protected by gates, derail switches and danger signals on the electric road interlocked with home and distant signals on the steam tracks. No further protection is necessary at this crossing.

On Fresh Pond Road the double tracks of this company cross three tracks of the Long Island Railroad Company, one of which is the Bushwick Branch; the other two are the Montauk Division. On the electric tracks looking north, view of steam tracks is obstructed in either direction. Same conditions exist looking south. Between the outside rails of the steam tracks this crossing is 40 feet 6 inches. On the steam tracks looking west, the view from the crossing is obstructed by a curve; looking east, good view can be had of the steam tracks for over 2,000 feet. This is a cut crossing with special work in fair condition. The

maximum number of trains operated over the steam tracks in 24 hours is 272, the minimum number is 161. It is protected by gates and derails on the electric tracks interlocked with home and distant signals on the steam road. The cars are operated over the electric road on a maximum headway of 10 minutes, and a minimum of 5 minutes. No further protection is necessary at this crossing.

On Cypress avenue the single track of this company crosses the double tracks of the Manhattan Beach Division of the Long Island Railroad Company. The electric track is located on the south side of the street. Looking east from it, the view of the steam tracks is obstructed in either direction. The same condition exists looking west from the electric track. Standing on the center of the crossing a good view of the steam tracks can be had for over 3,000 feet to the south. The view to the north is limited by a curve to 1,000 feet. This is a cut crossing with special work in poor condition. It is protected by gates and derails in the electric tracks interlocked with home and distant signals on the steam road. These are operated by a man on the ground who is on duty from 6:00 in the morning until 7:14 p. m., at which time the last train on the steam road passes this point. The maximum number of trains operated over the steam road during the twenty-four hours is 56; the minimum number is 26. Cars are operated over the electric track on a 15 minute maximum and a $6\frac{1}{2}$ minute minimum headway. During the summer season this crossing is protected by a man on duty at all hours night and day. The special work at this crossing should be put in good condition.

On Myrtle avenue the double tracks of this company cross the double tracks of the Manhattan Beach Division of the Long Island Railroad Company. On the electric tracks looking west a view of the steam tracks can be had to the north for 800 feet, and 500 feet to the south. Looking east on the electric tracks a view of the steam tracks can be had for 800 feet to the north. The view of them is obstructed to the south. Standing on the steam tracks a view can be had for over 2,000 feet in either direction. This is a cut crossing with special work in poor condition. The maximum number of trains operated on the steam road in twenty-four hours is 56, and the minimum number is 26. Cars on the electric road are operated on a maximum headway of 10 minutes and a minimum of $4\frac{1}{2}$ minutes. This crossing is protected by gates and derailing switches on the electric tracks interlocked with home and distant signal on the steam road. These are operated by a man in the tower who is on duty from 6:10 in the morning until 7:30 p. m., at which time the last steam

train passes this point. During the summer season there is a man on duty in the tower at all hours day and night. The special work at this crossing should be put in good condition.

On Fulton street the double tracks of this company cross the double tracks of the Manhattan Beach Branch of the Long Island Railroad Company. From the electric tracks looking west, the view of the steam tracks is obstructed in either direction. The same conditions exist looking east. From the centre of steam tracks a good view can be had of them for over 2,000 feet to the south. Looking north the view is obstructed by a curve which is 600 feet distant from the crossing. There is a curve in the electric track on the east side of the crossing. It is a cut crossing with special work in poor condition. This crossing is under the elevated track and the trolley wire is suspended in a trough from the structure. It is protected by gates operated by man on the ground who is on duty during the winter season until 7:09 p. m., at which time the last train on the steam road passes this crossing. During the summer season there is a man on duty at all hours while trains are operated over the steam road. The curve in the steam tracks on the north side of this crossing make it a very dangerous one. The maximum number of trains operated over the steam road at this crossing during twenty-four hours is 56; the minimum number is 26. Cars are operated over the electric tracks on a maximum headway of 10 minutes, and a minimum of 1 minute. The special work at this crossing should be put in good condition and it should be protected by derailing switches and signal on the electric tracks interlocked with home and distant signals on the steam road.

On Halsey street the double tracks of this company cross the single track of the Atlantic Division of the Long Island Railroad Company. On the electric track the view of this crossing is obstructed in all directions. Standing on the crossing view of the steam tracks can be had for over 2,000 feet in either direction. This crossing is not protected in any manner. This branch of the Long Island Railroad Company is at present operated for freight purposes only. There is a very small amount of traffic over it. Until the traffic on the steam tracks is increased, compliance with the rules of the Brooklyn City Railroad Company in reference to conductor's going ahead of his car, I consider sufficient protection at this crossing.

On Kingston avenue the double tracks of this company cross the double tracks of the Atlantic Avenue Division of the Long Island Railroad Company. On the electric tracks looking south the view of the steam tracks is obstructed by trees in either direction. Looking north, the view of the steam tracks can be had

for 1,000 feet in either direction. Standing on the crossing a view of the steam tracks can be had for 2,000 feet on either side of it. It is a cut crossing with special work in fair condition. It is protected by gates operated vertically in guides by a man on the ground at all hours of day and night. The maximum number of trains operated on the steam road over this crossing in twenty-four hours is 184; the minimum number is 56. Cars on the electric tracks are operated on a maximum headway of 10 minutes and a minimum of 3 minutes. This crossing should be protected by derailing switches and signal on the electric tracks interlocked with home and distant signals on the steam road.

On Nostrand avenue the double tracks of this company cross the double tracks of the Atlantic Avenue Division of the Long Island Railroad Company. On the electric tracks looking south a view of the steam tracks is obstructed by trees in either direction. Looking north a view of them can be had for 1,000 feet to the east and 500 feet to the west. Standing on the crossing a view of the steam tracks can be had for 1,500 feet to the west and over 2,000 feet to the east. Fifteen hundred feet west of this crossing there is a curve in the steam tracks. It is a cut crossing with special work in fair condition. It is protected by vertical gates working in guides operated by a man on the ground at all hours of day and night. The maximum number of trains operated over this crossing on the steam track in 24 hours is 184, and the minimum number is 58. Cars on the electric road are operated on a maximum of 10 minutes headway and a minimum of 3 minutes. This crossing should be protected by derailing switches and signal on the electric track interlocked with home and distant signals on the steam road.

On Flatbush avenue the double tracks of this company cross the double tracks of the Manhattan Beach Branch of the Long Island Railroad Company. On the electric tracks on either side of the crossing good view can be had of the steam tracks in all directions. Standing on the crossing, a good view of the steam tracks can be had for over 2,000 feet in either direction. Flatlands Station is 500 feet west of this crossing. It is a cut crossing with special work in fair condition. It is equipped with gates and derailing switches on the electric tracks interlocked with home and distant signals on the steam road connected to be operated from a tower. These safety devices are not now being operated. The maximum number of trains operated on the steam road over this crossing in 24 hours is 78. The minimum number is 10. Cars on the electric road are operated on a maximum headway of 15 minutes and a minimum of 6 minutes. While this crossing is open and clear to view in all directions, the traffic over the steam road and the

number of cars operated on the electric tracks justify me in making a recommendation that the safety devices at this crossing be operated at all hours while trains are being run on the steam road and at all seasons of the year.

On Avenue C the double tracks of this company cross the double tracks of the Brooklyn and Brighton Beach Railroad Company, which is operated by the Kings County Elevated Railroad Company. On the electric tracks a good view of the steam tracks can be had in all directions. Standing on the crossing good view of the steam tracks can be had for 2,000 feet on either side of it. It is a cut crossing with special work in fair condition. It is protected by gates operated by man on the ground who is on duty from 6.30 a. m. until 8.30 p. m., at which time the last train on the steam road passes this point. During the summer season there is a man on duty at all hours night and day. There are 63 trains operated over this crossing on the steam road. Cars on the electric road are not being operated at present, with the exception of one car which is operated in both directions over one track. When operation has commenced on regular schedule time over the electric tracks, this crossing should be protected by derailing switches and signals on the electric track interlocked with home and distant signal on the steam road.

On Kent avenue the double tracks of this company cross three tracks owned and operated by several steam railroad companies and used for freight and switching purposes only. This crossing is clear to view in all directions and is protected by three gates; two of these protect two of the tracks and the other the remaining track, which is 30 feet south of the other two. These gates are operated by a man on the ground at all hours while there is traffic on the steam road. As these tracks are used for freight purposes only, I consider this sufficient protection for this crossing.

On Vernón avenue the double tracks of this company cross the double tracks of the Long Island Railroad Company. The view of this crossing is obstructed in all directions. It is a jump crossing, with special work in poor condition. It is protected by gates operated by a man on the ground, and also by a flagman. These men are on duty at all hours. There is only one car which is operated by horse power, between the terminal of the Crosstown lines and the Long Island depot, which passes over this crossing.

One hundred feet north of this crossing the double tracks of this company cross four tracks of the Long Island Railroad Company. The view of this crossing is obstructed in all directions. It is a jump crossing with the special work in poor condition. It is protected by gates, operated by a man on the ground, and by two flagmen. These men are on duty at all hours night and day. The

operation on the electric tracks over this crossing is by horse power. The maximum number of trains passing over the steam road in 24 hours is 389. The minimum number is 267. Until the method of operation on the electric tracks is changed, no further protection is required at these two crossings.

On Greenpoint avenue the double tracks of the company cross the double tracks of the Montauk Division of the Long Island Railroad Company. On the electric tracks, looking north, the view of the steam tracks is obstructed in both directions. Looking south, a good view can be had of them in either direction. This is a jump crossing with special work in poor condition. It is protected by gates operated by a man on the ground at all hours of day and night. There is one horse car operated over the electric tracks which runs from the bridge at the terminal of the Greenpoint line to Calvary cemetery. The maximum number of trains operated over the steam tracks in 24 hours at this crossing is 224. The minimum number is 131. Until the method of operation on the electric tracks is changed, this crossing needs no further protection.

On Third avenue the double tracks of this company cross five tracks of the South Brooklyn Railroad and Terminal Company, three of which are main line passenger tracks, the other two being used for freight and switching purposes. On the electric tracks, looking north, the view is obstructed in either direction. Looking south, a view of the steam track can be had to the terminal station, which is 500 feet distant from this crossing. The view to the east is obstructed. This is a cut crossing 75 feet between the outside rails. The three main line tracks are protected by gates which are not operated during the winter season, as there is no traffic on the steam road. Cars on the electric line are operated over this crossing at a maximum headway of 30 minutes, and a minimum of 2 minutes. These gates should be changed so as to protect the two freight tracks in addition to the three main line tracks.

On Second avenue the double tracks of this company cross five tracks of the South Brooklyn and Terminal Company. On the electric tracks looking north the view is obstructed to the east and is clear to the end of the tracks to the west. Looking south, view is unobstructed in either direction. Standing on the crossing view can be had of the steam tracks to Third avenue in one direction, and to the water front and end of the tracks in the other. This is a cut crossing with special work in fair condition. It is not protected in any manner. There is no traffic over the steam tracks during the winter season. In the summer trains are operated over them to the Thirty-ninth Street ferry. There is no regular line of cars operated over the electric tracks, they being used

as emergency tracks. During the summer season this crossing should be protected by flagmen.

In the above description of crossings the view of the crossing from the electric tracks was in all cases taken at a point 50 feet distant from the steam tracks.

I find that at six points on the Long Island Railroad where electric lines cross their track this company has placed in their rails near the crossing, what are known as expansion points. These provide for the expansion and creeping of the rail on the steam tracks, and prevent the special work of the crossing being pushed out of alignment by them. The condition of special work at a crossing of electric and steam track is an important element in the safe operation of the crossing, and as these expansion points are a great advantage in maintaining the special work in good condition, I would recommend that the introduction of them be extended to all steam and electric crossings on the Long Island Railroad system.

A copy of this report was transmitted to the Brooklyn Heights Railroad Company (the operating company), with a letter making the recommendations of the electrical expert the recommendations of this Board, and making his recommendations, as to derailing switches and signals, the requirements of the Board, under chapter 466 of the laws of 1898. A copy of the report was also sent to the South Brooklyn Railroad and Terminal Company. This latter company replied, that so far as the recommendation as to flagman on Second avenue is concerned, one would be stationed at the point in question; that so far as the recommendation as to changing the gates at Third avenue was concerned, the practice of its railroad being to cross the two freight tracks but little, and its locomotive stopping before crossing and then being flagged across, it asked a modification of the recommendation. The Board notified the South Brooklyn Railroad and Terminal Company that so long as the existing practice, viz.: that the locomotive stops before crossing and is then flagged across, continues, the Board modified its recommendation so that the gates need not be changed. A copy of the report of the electrical expert was also sent to the Long Island Railroad Company. After considerable correspondence and further inspections by the electrical expert, he reported to the Board that the matter of protection at these crossings was under discussion and consideration by the general superintendent of the Long Island Railroad and by the president of the Brooklyn Heights Railroad Company. The Board has again communicated with the companies on the subject.

REPORT OF THE ELECTRICAL EXPERT AS TO CROSSING OF THE BROOKLYN HEIGHTS RAILROAD, AND THE BROOKLYN WHARF AND WAREHOUSE COMPANY'S STEAM RAILROAD, ON MONTAGUE STREET, BROOKLYN.

March 14, 1899.

I have made an inspection of the crossing of the Brooklyn Heights Cable road with the Brooklyn Wharf and Warehouse Company's steam road on Montague street and find that the

single track of the cable line crosses the single track of the steam road at this point. This crossing is at the foot of a ten per cent. grade on the cable line; a good view of it can be had in all directions. There is very little traffic on the steam line, it being used for freight purposes only. This crossing is near the terminus of the cable line. There is no protection at this crossing and under the present method of operation, I do not consider any additional protection is needed.

REPORT OF THE ELECTRICAL EXPERT IN THE MATTER OF CROSSINGS
OF THE NASSAU ELECTRIC RAILROAD AND STEAM RAILROADS.

March 15, 1899.

I have made an inspection of the steam and electric crossings on the Nassau Electric Railway Company's system, and submit the following:

On Vanderbilt avenue, the double tracks of this company cross the double tracks of the Atlantic Avenue branch of the Long Island Railroad Co. On the electric tracks, looking north, a view of the steam tracks can be had for 500 feet to the west and 1,500 feet to the east. Looking south, view of the steam tracks can be had for 500 feet to the east and 1,500 feet to the west. From the centre of the crossing, a view can be had of the steam tracks for more than 2,000 feet in either direction. It is a cut crossing, with special work in poor condition, and is protected by vertical gates working in guides, operated by a man on the ground at all hours day and night. On the street, south of the crossing, there is a down grade approaching it (3 per cent.), and a sharp curve in the electric track. The maximum number of trains operated on the steam road over this crossing is 184. The minimum number is 58. Cars on the electric line are operated on a maximum of 10 minutes headway and a minimum of 5 minutes. The special work at this crossing should be put in good condition and the crossing should be protected by derails and signals on the electric tracks, interlocked with home and distant signals on the steam road.

On Atlantic avenue, at the corner of Carlton avenue, the double tracks of this company cross the double tracks of the Long Island Railroad Company, which extend from the Atlantic Division of that Company to the freight yards and connect with elevated structure of the Brooklyn Elevated Railroad Company. At this point the electric tracks are laid parallel with and are in the same street with the Atlantic Avenue branch of the Long Island Railroad. This crossing, which is now being reconstructed, is a diagonal cut crossing and when completed will be

equipped with derails and signals on the electric tracks interlocked with home and distant signals on the steam road. No further protection is necessary at this point.

On New Utrecht avenue, the double tracks of this company cross the double tracks of the Bay Ridge Division of the Long Island Railroad Co. On the electric tracks the view of the steam road to the west is obstructed and a clear view can be had of it to the east. Looking north, good view of the steam tracks can be had in either direction. Standing on the crossing, view of the steam tracks can be had for more than 2,000 feet on either side of it. It is a diagonal cut crossing, with special work in good condition. There is no protection at this point. The trains operated over this crossing on the steam road are mostly freight, and are run at irregular intervals. Cars on the electric tracks are run on a five-minute headway. This crossing should be protected by derails and signals in the electric track, interlocked with home and distant signals on the steam road.

At the Coney Island terminus of this Company's lines, its double tracks cross the double tracks of the New York and Coney Island Company, operated by the Long Island Railroad Company. This is a diagonal crossing, the view of which is obstructed in either direction. Standing on the crossing, a view can be had of the steam tracks for more than 2,000 feet on either side of it. Special work in good condition. This crossing is protected by derails in the electric tracks, interlocked with home and distant signals on the steam road. These devices are not operated during the winter season. This crossing enables cars to be run from the west end branch of this company's line to the Surf Avenue road. The traffic over the steam road is mostly freight and at irregular intervals. No further protection is needed at this crossing.

On West Eighth street, the double tracks of this company cross the double tracks of the New York and Coney Island Railroad, operated by the Long Island Railroad Company. On the electric tracks, the view of this crossing is obstructed in all directions. Standing on the crossing, a view of the steam tracks is limited to 500 feet on either side of it by curves. It is a cut crossing, with special work in fair condition, and is protected by derails and signals on the electric tracks, interlocked with home and distant signals on the steam road. These devices are not operated during the winter season. The operation of trains over the steam road is at irregular intervals and is freight traffic. Cars on the electric line are operated on a 15-minute headway. During the winter season compliance with the company's rules in reference to conductor going ahead of his car at steam crossings is sufficient protection at this point.

On Neptune avenue, the double tracks of this company cross three tracks of the Prospect Park and Coney Island Railroad, operated by the Long Island Railroad Company. On the electric tracks, looking east a good view of the steam tracks can be had to the north. A view of them to the south can be had for a distance of 500 feet. Looking west, the view is obstructed in either direction. Standing on the crossing, a view of the steam tracks to the north can be had for a distance of 800 and to the south for a distance of more than 2,000 feet. On the north side of the crossing, there is a curve in the steam track. It is a cut crossing; with special work in fair condition, and is protected by derails and signals in the electric tracks, interlocked with home and distant signals on the steam road. During the winter season these are operated from 7 a. m. until 7.30 p. m., at which time the last train passes over the steam tracks. During the summer season, these devices are operated at all hours, day and night. The maximum number of trains operated over the steam road at this crossing in 24 hours is 62. The minimum number is 30. Cars are operated over the electric lines on a 15-minute headway. No further protection is necessary at this crossing.

On Emmons avenue, the double tracks of this company cross the double tracks of the Brooklyn and Brighton Beach Railroad, operated by the Kings County Elevated Railroad Company. This crossing is open and clear to view in all directions. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet on either side of it. This is a diagonal cut crossing, with special work in good condition, and is protected by derails and signals in the electric tracks, interlocked with home and distant signals on the steam track operated from a tower at all hours day and night. A flagman is also employed at this point. He is on duty from 6.30 in the morning until 8.30 at night. Cars on the electric tracks are operated on fifteen-minute headway. No further protection is necessary at this crossing.

On Emmons avenue, the double tracks of this company cross the double tracks of the Manhattan Beach Division of the Long Island Railroad Company. On the electric tracks a good view can be had of the steam road in all directions. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet on either side of it. It is a diagonal cut crossing, with special work in good condition, and is protected by derails and signals in the electric track interlocked with home and distant signals on the steam road. These are operated from a tower at all hours day and night. The maximum number of trains operated on the steam road over this crossing in twenty-four hours is 78 and the minimum number is 4. No further protection is necessary at this crossing.

On Ocean avenue, the double tracks of this company cross the double tracks of the Manhattan Beach Division of the Long Island Railroad Company. On the electric tracks, looking south, good view of the steam roads can be had to the east; view to the west is obstructed by trees. Looking north the view is obstructed in either direction by trees. Standing on the crossing, view of the steam tracks can be had for more than 2,000 feet on either side of it. This is a cut crossing, with special work in good condition, and is equipped with derails and signals in the electric track, interlocked with home and distant signals on the steam road. These devices are not operated during the winter season. The maximum number of trains operated on the steam road over the crossing in twenty-four hours is 78; the minimum number is 10. Cars on the electric tracks are operated on a fifteen-minute headway. The conditions surrounding this crossing are such that these safety devices should be operated at all hours while trains are run over the steam road.

On Church lane, the double tracks of this company cross the single track of the Prospect Park and Coney Island Railroad, operated by the Long Island Railroad Company. On the electric tracks, looking west, a good view of the steam road can be had in either direction. Looking east, the view is obstructed to the north by trees; to the south, open and clear. Standing on the crossing, view of the steam tracks can be had for more than 2,000 feet on either side of it. It is a cut crossing, with special work in fair condition, and is equipped with derails and signals in the electric tracks, interlocked with home and distant signals on the steam road. These devices are not operated during the winter season. The maximum number of trains operated on the steam road over this crossing is 60; the minimum number is 4. Electric cars are operated on a fifteen-minute headway. These safety devices should be operated at all hours while trains are running over this crossing on the steam road.

On Thirteenth avenue, the double tracks of this company cross the double tracks of the Prospect Park and Coney Island Railroad, operated by the Long Island Railroad. On the electric tracks, looking east, a clear view of the steam tracks can be had in either direction, and, looking west, the same conditions exist. Standing on the crossing a view of the steam tracks can be had for more than 2,000 feet on either side of it. On the east side of the crossing there is a sharp curve in the electric tracks and they are laid parallel with the steam road for a distance of 1,000 feet.

It is a cut crossing, with special work in fair condition, and is protected by derails and signals in the electric track, interlocked with home and distant signals on the steam road operated from a tower. During the winter season, from 6.30 a. m. until 8.30 p. m.,

at which time the last train on the steam road passes this point. During the summer season they are operated at all hours night and day. The maximum number of trains operated on the steam road over this crossing in twenty-four hours is 62; the minimum number is 30. The electric cars are operated on a fifteen-minute headway. No further protection is needed at this crossing.

On Rockaway avenue, the double tracks of this company cross the double tracks of the Manhattan Beach Division of the Long Island Railroad Company. On the electric tracks, looking south, a view can be had of the steam road for 500 feet in either direction. Looking north, a view can be had for 500 feet to the east. The view to the west is obstructed. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet on either side of it. It is a diagonal cut crossing, with special work in poor condition, and it is protected by derails and signals in the electric track, interlocked with home and distant signals on the steam road. These devices are not operated during the winter season. The maximum number of trains operated over this crossing, on the steam road, in twenty-four hours, is 78; the minimum number is 10. The electric cars are operated on a fifteen-minute headway. The special work at this crossing should be put in good condition, and the safety devices should be operated at all hours while trains on the steam road are passing over it.

On Rockaway Parkway, the double tracks of this company cross the double tracks of the East New York and Canarsie Railroad. On the electric tracks, view of the steam road is obstructed in all directions. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet to the east and for 500 feet to the west. The view to the west is obstructed by a curve in the steam tracks. It is a right-angle crossing, with special work in good condition, and is equipped with gates and derails in the electric tracks, interlocked with home and distant signals on the steam road operated from the ground. As no trains are run over the steam tracks during the winter season, these devices are not operated at this time of year. The electric cars are operated on a fifteen-minute headway. No further protection is needed at this crossing.

On Rockaway Parkway, the double tracks of this Company cross the double tracks of the East New York and Canarsie Railroad Company. On the electric tracks, looking south, view of the steam tracks can be had for 1,000 feet in either direction. Looking north, a view of them can be had for 1,000 feet east and over 2,000 feet west. It is a diagonal cut crossing, with special work in good condition, and is protected with derails and signals in the electric tracks, interlocked with home and distant signals

on the steam road and gates operated from the ground. This crossing is 1,000 feet from the Canarsie terminal of the steam road. The electric cars are operated on a fifteen-minute headway. As there is no operation over the steam road in the winter season, no further protection is necessary at this crossing.

On Liberty avenue, the double tracks of this company cross three tracks of the Manhattan Beach Division of the Long Island Railroad Company and the single track of the East New York and Canarsie Railroad Company. On the electric tracks the view of the steam roads is obstructed in all directions. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet on either side of it. It is a right-angle cut crossing, with special work in good condition, and is protected by gates and derails in the electric track, interlocked with home and distant signals on the steam road operated from a tower. During the winter season, from 7 a. m. until 7 p. m., at which time the last train on the steam road passes this point. During the summer they are operated at all hours of the day and night. There is no operation on the East New York and Canarsie Railroad during the winter season, and the maximum number of trains operated on the steam road (Long Island Railroad) over this crossing in twenty-four hours is 78, and the minimum number is 10. The electric cars are operated on $7\frac{1}{2}$ -minute headway. No further protection is needed at this crossing.

On Liberty avenue the double tracks of this company cross a single side track of the Long Island Railroad Company, which extends from the Manhattan Beach Division to lumber yards, and is used exclusively for switching purposes. There is very little traffic over it. On the electric tracks, the view of this track is obstructed in all directions. There is a derail in the steam track. Electric cars are operated on a $7\frac{1}{2}$ -minute headway. No further protection is needed at this point.

On Rockaway avenue, the double tracks of this company cross the double tracks of the Atlantic Avenue line of the Long Island Railroad Company. On the electric tracks, the view of the steam road is obstructed in all directions. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet on either side of it. It is a right angle cut crossing, with special work in good condition, and is protected by vertical gates working in guides operated by a man on the ground; also by derails and signals in the electric tracks, interlocked with home and distant signals on the steam road operated from a tower, both of which are in operation at all hours of the day and night. The maximum number of trains, operated on the steam road over this crossing in 24 hours, is 184. The minimum number is 58. Elec-

tric cars are run on a 5-minute headway. No further protection is necessary at this crossing.

I am informed by the General Superintendent of the Long Island Railroad Company that an order is in force to the effect that "at all crossings, which are equipped with gates and other safety devices that are not being operated, all trains must come to a full stop and flag themselves across these crossings." I find that this order is not, in all cases, being complied with. The safe operation of these crossings demands that this order should be complied with in all cases, or that the safety devices at these crossings should be put in operation.

For this reason I have made recommendations in this report that the gates, derailing switches and signals be operated at all hours while trains are moving on the steam road.

A copy of this report was transmitted to the Brooklyn Heights Railroad Company, (the operating company) with a letter making the recommendations of the electrical expert the recommendations of this Board, and making his recommendations, as to derailing switches and signals, the requirements of the Board, under chapter 466 of the Laws of 1898. A copy of the report of the electrical expert was also sent to the Long Island Railroad Company. After considerable correspondence and further inspection by the electrical expert, he reported to the Board that the matter of protection at these crossings was under discussion and consideration by the general superintendent of the Long Island Railroad and by the president of the Brooklyn Heights Railroad. The Board has again communicated with the companies on the subject.

**REPORT OF THE ELECTRICAL EXPERT AS TO CROSSINGS OF THE
BROOKLYN, QUEENS COUNTY AND SUBURBAN RAILROAD AND
STEAM RAILROADS.**

March 15, 1899.

I have made an inspection of the steam and electric crossings on the tracks of the Brooklyn, Queens County and Suburban Railroad Company's system and submit the following:

On Metropolitan avenue, the double tracks of the company cross the single track of the Bushwick branch of the Long Island Railroad Company. On the electric tracks, looking west, the view of the steam tracks is obstructed in either direction. Looking east, the same conditions exist. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet in either direction. This is a diagonal cut crossing, with special work in fair condition. It is protected by gates operated from a tower where there is a man on duty at all hours of day and night. Trains operated on the steam tracks during 24 hours number 272 maximum; minimum 161. Cars are operated over the electric line on a maximum headway of 20 minutes and a minimum of 5 minutes. This crossing should be protected by derails and

signals on the electric tracks interlocked with home and distant signals on the steam road.

On Metropolitan avenue, the double tracks of this company cross three tracks of the Bushwick and Montauk Divisions of the Long Island R. R. On the electric tracks, looking east, a view of the steam tracks to the south is unobstructed. To the north, the steam tracks are nearly parallel with the electric tracks and a view can be had of them for 800 feet. Looking west, the view of the steam tracks is obstructed on the south, and a view can be had for 500 feet to the north. Between the outside rails of the steam tracks at this crossing is 66 feet. Standing on the crossing a view of the steam tracks can be had for more than 2,000 feet to the south, and 800 feet to the north. It is a cut crossing with special work in fair condition, and is protected by gates, derails in the electric track interlocked with home and distant signals on the steam road. These are operated by man on the ground at all hours of day and night. The maximum number of trains operated over this crossing in 24 hours is 272, and the minimum number is 161. Cars on the electric line are operated on a maximum headway of 20 minutes and a minimum of 5 minutes. No further protection is necessary at this crossing.

On Jamaica avenue, the double tracks of this company cross the double tracks of the Montauk Division of the Long Island Railroad Company. Looking east on the electric tracks, the view of the steam tracks is obstructed in either direction. Looking west the same conditions exist. Standing on the crossing a view of the steam tracks can be had for more than 2,000 feet in either direction. There is a curve in the electric tracks about 500 feet on either side of the crossing. It is a cut crossing with special work in good condition, and is protected by gates operated by man on the ground at all hours of day and night. One hundred feet west of this crossing, on the electric tracks, is the junction of the Myrtle Avenue and Jamaica Plank Road lines, this being the terminus of the Myrtle Avenue line. The maximum number of trains operated over this crossing in 24 hours is 106. The minimum number is 99. This crossing should be protected by derails and signals in the electric tracks, interlocked with home and distant signals on the steam road.

On Broadway, the double tracks of this company cross the double tracks of the Manhattan Beach Division of the Long Island Railroad Co. Looking west, on the electric tracks, a view of the steam tracks to the south can be had for 1,500 feet. The view to the north is obstructed. Looking east, no view of the steam tracks can be had in either direction. Standing on the crossing, a view of the steam tracks can be had for 300 feet to the north and 1,500 feet to the south. The view on either side of the

crossing being limited to these distances by the curves in the steam track. It is a cut crossing, with special work in poor condition. At this point the electric tracks are under the elevated structure, but there is no trough over the trolley wire. It is protected by gates operated by a man on the ground at all hours while trains are running on the steam road. The hours during the winter being from 7.09 a. m. to 12.27 a. m. The maximum number of trains operated over this crossing on the steam road in 24 hours is 56. The minimum number is 26. Cars are operated on the electric tracks on a maximum headway of 10 minutes and a minimum of 1 minute. The curves in the steam track on either side of this crossing add to the danger of its operation. It should be protected by derails and signals on the electric tracks, interlocked with home and distant signals on the steam road. The special work should be put in good condition, and broken rails on the steam track should be replaced.

On Troy avenue, the double tracks of this company cross the double tracks of the Atlantic Division of the Long Island Railroad Company. On the electric tracks, looking south, the view of the steam tracks is obstructed in both directions by trees. Looking north the view is obstructed in the same manner. Standing on the crossing, a view of the steam tracks can be had for more than 2,000 feet in either direction. It is a cut crossing with special work in fair condition, and protected by gates operated vertically in guides by man on the ground at all hours, day and night. The maximum number of trains operated over this crossing on the steam road in 24 hours is 184; the minimum number is 58. The cars are operated over the electric lines on a maximum headway of $7\frac{1}{2}$ minutes and a minimum of 3 minutes. This crossing should be protected by derails and signals on the electric tracks, interlocked with home and distant signals on the steam road.

On Ralph avenue, the double tracks of this company cross the double tracks of the Atlantic Division of the Long Island Railroad Company. On the electric tracks, looking north, a view of the steam tracks can be had for 800 feet to the east. The view to the west is obstructed by trees. Looking south, the view is obstructed in the same manner in either direction. Standing on the crossing a view of the steam tracks can be had for more than 2,000 feet on either side of the crossing. It is a cut crossing with special work in good condition, and is protected by gates operated by a man on the ground at all hours of the day and night. The maximum number of trains operated over this crossing on the steam road in twenty-four hours is 184; the minimum number is 58. Cars are operated over the electric tracks on a maximum headway of 5 minutes and a minimum of 2 minutes.

This crossing should be protected by derails on the electric track interlocked with home and distant signals on the steam road.

On Utica avenue the double tracks of this company cross the double tracks of the Atlantic Division of the Long Island Railroad Company. On the electric tracks, looking south, the view of the steam tracks to the west is obstructed by buildings and to the east by trees. Looking north view can be had of them for 500 feet in either direction. Standing on the crossing a view can be had of the steam tracks for more than 2,000 feet on either side of it. It is a cut crossing with special work in poor condition, and is protected by vertical gates, working in guides, with derail switches and signals on the electric tracks, interlocked with home and distant signals on the steam road. I find the derail switches and signals on the electric and steam roads are out of order and have not been operated for the past two weeks. The maximum number of trains operated on the steam road over this crossing in twenty-four hours is 184, the minimum number is 58. Cars on the electric tracks are operated on a maximum headway of 20 minutes and a minimum of 4 minutes. When the derail switches and signals on the electric and steam tracks are repaired and put in operation, the protection at this crossing will be sufficient.

In the above description of crossings, the view of the steam tracks is taken 50 feet from the crossing on the electric tracks.

A copy of this report was transmitted to the Brooklyn Heights Railroad Company (the operating company), with a letter making the recommendations of the electrical expert the recommendations of this Board, and making his recommendations, as to derailing switches and signals, the requirements of the Board, under chapter 466 of the laws of 1898. A copy of the report of the electrical expert was also sent to the Long Island Railroad Company. After considerable correspondence and further inspections by the electrical expert, he reported to the Board that the matter of protection at these crossings was under discussion and consideration by the general superintendent of the Long Island Railroad and by the president of the Brooklyn Heights Railroad. The Board has again communicated with the companies on the subject.

**REPORT OF THE ELECTRICAL EXPERT AS TO JOINT OPERATION OF
ELECTRIC CARS AND STEAM TRAINS OVER THE TRACKS OF THE
PROSPECT PARK AND CONEY ISLAND RAILROAD AND BRIGHTON
BEACH RAILROAD.**

August 23, 1899.

I find that the Brooklyn Heights Railroad Company is operating cars by steam and electricity on the same tracks on the Prospect Park and Coney Island Railroad (Culver Route) and on the Brighton Beach Railroad.

The Prospect Park and Coney Island Railroad (Culver Route) is the outlet of the Brooklyn Elevated Railroad to Coney Island;

and the steam and electric trains of the Fifth avenue line of the Brooklyn Elevated Railroad Company between Brooklyn Bridge and Coney Island are operated over it. At present the service consists of both steam and electric trains, divided about equally. On week days a 20-minute interval is maintained between trains; on Sundays and holidays the minimum interval is about six minutes, and on these days, up to the present, it has been necessary to operate almost entirely by steam, due to lack of electrical equipment and to not having completed the system of feeder wires to supply sufficient electricity. The elevated steam cars are generally made up of a motor (closed) and three open trailers, operated by the Sprague multiple unit system. The elevated division is equipped with the third rail and the cars have trolley poles which are let up when the surface tracks are reached.

Twelve of the motor cars are equipped with four Walker motors of nominally 120-horse power each—a connecting shoe being in contact with the third rail. The trailers are provided with trolley poles, and each train is supposed to have two trolley poles in contact with the wire all the time. A flexible metallic connection is used between the trailers and the motor cars. There are also twenty cars equipped with Westinghouse motors, four to a car, of nominally 125-horse power each. The cars are provided with air brakes.

Another line of steam trains is operated over this route from Coney Island to the Thirty-ninth street ferry, consisting of an engine and three coaches. These trains reach the Thirty-ninth street ferry from Thirty-sixth street over the tracks of the South Brooklyn Warehouse and Terminal Company under a traffic agreement. The trains are operated from 7 a. m. to 11:30 p. m. on a 20-minute interval in order to meet each boat.

Two lines of trolley cars from the surface roads are also operated over the Prospect Park and Coney Island Railroad, as follows:

One line from Hamilton ferry, running by way of Hamilton avenue to Fifteenth street, thence to Ninth avenue, thence to Twentieth street, where the Ninth avenue line joins the tracks of what was formerly known as the Ninth avenue division of the Prospect Park and Coney Island Railroad; thence by the Ninth avenue division of the Prospect Park and Coney Island Railroad to Kensington Junction, where it joins the main line of the Prospect Park and Coney Island Railroad, thence to Coney Island. On week days a 10-minute headway is maintained on this line between Hamilton ferry and Coney Island; on Sundays a 6 minute headway.

Another line starts from Broadway ferry and runs by way of Kent avenue to Washington avenue, to Park avenue, to Vanderbilt

avenue, to Ninth avenue; thence Ninth avenue to Twentieth street, where it joins the tracks of the Ninth Avenue Division of the Prospect Park and Coney Island Railroad, as previously described. On week days an 8-minute headway is maintained; on Sundays a 6-minute interval to Coney Island.

From Kensington Junction to Coney Island, a distance of about five miles, the elevated electric and steam trains, and the surface electric cars, are operated at intervals of 2 minutes on Sundays and holidays. During the latter part of the evening and toward midnight the headway on both the surface trolley cars and the trains of the elevated railroad is considerably lengthened. After midnight the elevated trains are on a 30-minute headway, and the trolley cars on the surface lines on about 15-minute headway up to 1.30 a. m., at which time the operation is discontinued.

The Prospect Park and Coney Island Railroad is a double track road constructed with 56-pound "T" rail, which has been bonded for electric operation. The rail and roadbed are not in first class condition. At Kensington Junction, where the Ninth avenue line intersects the Thirty-sixth street line, the junction is protected by semaphore signals operated from a tower. The switches are operated from this tower and interlocked with the semaphore signals.

At Parkville Junction, which is a double track crossing with the Bay Ridge Division of the Long Island Railroad—and at which point there is a "Y" on one side and a single connecting curve on the other—all the switches are operated from a central tower and are interlocked with semaphore signals. There is a small amount of freight business transacted between this point and Coney Island; it comes from the Long Island Railroad and is taken by their cars between midnight and 6 a. m. The Bay Ridge Division of the Long Island system is used only for freight, there being no passenger service over it.

At Van Sicklen Station, which is about 2,000 feet from the Coney Island terminal of the Prospect Park and Coney Island Railroad, there is a double track crossing with the Marcy avenue electric line. This crossing is controlled from a tower with semaphore signals, and derail switches on the Marcy avenue road.

Flagmen are stationed at all the principal highway crossings day and night.

At the Coney Island terminal there are four pockets, in each of which are two train tracks and one center siding. Alongside of each of the train tracks is an open platform, upon which passengers alight and pass on to the terminal building. The center siding is used to enable the engines and motor cars of the electric

and steam trains to run around the train, there being no loops at this terminal.

Passengers at this point are handled in the following manner: Until the incoming passengers have cleared the platforms no outgoing passengers are admitted, the platforms being protected by gates in the terminal building, except in the east pocket, in which the electric cars are operated; here there is no means of separating the passengers. There are no turn-stiles at this terminal, but at each gate there are the usual run-ways and ticket-takers.

Brighton Beach Railroad.

This road was formerly operated by the Kings County Elevated Railroad Co., and was used by it to run its elevated steam trains to Coney Island. There is an incline connecting the Kings County Elevated with the surface tracks of the Brighton Beach Railroad at Franklin avenue, from which point to Brighton Beach the distance is about six miles. This railroad passes under all highways or streets between Franklin avenue and Beverly road by means of a series of tunnels. When it was acquired by the Brooklyn Rapid Transit Co. another incline was made at Flatbush avenue for the purpose of enabling the electric surface cars of the Brooklyn Rapid Transit system to reach the tracks of the Brighton Beach Railroad.

This railroad has been reconstructed with 70-pound steel rail, sixty feet in length and bonded for electric operation. At all of the principal crossings flagmen are stationed day and night. At Avenue C the Brighton Beach Railroad crosses the Avenue C surface electric line of the Brooklyn Heights Railroad. This crossing is protected by flagmen day and night.

At Sheepshead Bay connecting curves have recently been installed, connecting the Brighton Beach tracks with the tracks of the Long Island Railroad, Manhattan Beach Division, for the purpose of enabling the cars and trains of the Brighton Beach Railroad to reach the Manhattan Beach terminal of the Long Island Railroad. A few hundred feet beyond is the crossing with the Marcy Avenue Electric Surface line. This crossing and the switches connected with the Long Island Railroad are protected by semaphores, and derail switches on the Marcy Avenue Electric line, operated from a central tower. At the Brighton Beach terminal there are four loop tracks and two stub tracks.

At present the steam cars of the Kings County Elevated Railroad and the trolley cars of the Brooklyn Heights Railroad surface lines are operated over the Brighton Beach Railroad, as follows:

The trains of the Kings County Elevated Railroad consist of an engine and five coaches. On week days a 30-minute interval

is maintained from 7 a. m. to midnight; on Sundays and holidays trains are run from Brooklyn bridge to Manhattan beach on a 20-minute interval between same hours.

A line of surface cars is operated over the Brighton Beach Railroad from the New York side of the Brooklyn bridge by way of Fulton street to Flatbush avenue; thence via Flatbush avenue to Malbone street, reaching the tracks of the Brighton Beach Railroad over the incline described.

On week days the headway of the surface trolley cars of the Nostrand avenue (from Broadway ferry) line is ten minutes; and on the surface trolley cars of the Flatbush avenue (from New York) line the headway is six minutes. On Sundays and holidays the headway on the Nostrand avenue line is six minutes, and on the Flatbush line the headway is five minutes.

On Sundays and holidays the minimum headway on the Brighton Beach road, including steam trains and surface electric trolley cars, is about two and one-half minutes.

At the Brighton Beach terminal there is a commodious terminal building within about fifty feet of the nearest loop track. There are no gates at this terminal to separate the incoming and outgoing passengers.

On Sundays and holidays a very large number of people are carried over these lines in electric and steam cars. On Sunday night last I observed the operation of trains and cars on these routes, when an unusually large number of people were at the Coney Island and Manhattan Beach terminals. I found that the steam trains and electric cars were operated on about a two minute interval, there being more electric cars than steam trains; in some cases three or four electric cars would follow one another. At points on these routes the steam trains reached a speed of 30 miles an hour. The cars and trains were well spaced, and while a good rate of speed was maintained, they were operated in a careful manner. When a train or car came to a stop, all cars or trains following would also stop, and maintain the 1,000 feet distance apart. I found flagmen on duty at the different crossings, with a white and a red light. When a train came to a stop, no one was sent back to flag approaching cars or trains. With the system of operation, the sending of a man back when a train comes to a standstill would be impracticable, as stops are made so frequently by the electric car to accommodate passengers.

All the electric cars were equipped with an oil tail-light.

The operation of steam trains and electric cars over the same tracks, where the steam trains at times reach a speed of 30 miles an hour, can only be accomplished with safety by exercise of the utmost care on the part of every one interested in the

management of the trains. In case of fog it must be difficult to maintain this headway and speed.

At this time I have no recommendation to make regarding the operation of trains and cars on these lines, as I wish to make a more extended investigation and observation of the system.

Supplemental Report.

October 4, 1899.

Referring to my report of the joint operation of electric cars and steam trains over the tracks of the Prospect Park and Coney Island Railroad and the Brighton Beach Railroad, I find that the Brooklyn Elevated Railroad Company, the Brooklyn Heights Railroad Company, the Brooklyn City Railroad Company, the Nassau Railroad Company and the Long Island Railroad Company operate cars over the Prospect Park and Coney Island line.

The Brighton Beach Railroad Company, the Kings County Elevated Railroad Company, the Brooklyn Heights Railroad Company, the Brooklyn City Railroad Company and the Sea View Railroad Company operate cars over the Brighton Beach line. Commencing on October 1st, the electric cars are to be withdrawn from the Brighton Beach line; the operation will then be entirely by steam until next spring, when it is expected that the steam equipment of the elevated railroad companies will be changed to electricity, and the operation on this line will then be entirely by electricity.

On the Prospect Park and Coney Island line the elevated trains will run to Thirty-sixth street after October 1st; the operation from this point to Coney Island will be entirely by electricity, thus avoiding the joint operation of steam and electricity on this route during the winter season.

As there will be only one method of operation in use on these lines during the winter, I will make no recommendations at this time, but will make an additional inspection of these routes next spring and report to your honorable Board the conditions of operation and traffic on the two lines mentioned.

REPORT OF THE ELECTRICAL EXPERT AS TO CROSSINGS OF THE NEW YORK AND QUEENS COUNTY RAILROAD AND STEAM RAILROADS.

March 16, 1899.

I have made an inspection of the steam crossings on the New York and Queens County Railroad Company's system, and submit the following:

On Borden avenue the double tracks of this company cross the double tracks of the North Shore division of the Long Island

Railroad. From the electric tracks, looking east, the view of the steam tracks to the north is obstructed by a fence; to the south the tracks are nearly parallel with each other, and view can be had of the steam tracks for 150 feet; looking west the view is obstructed in both directions. Standing on the crossing, the view of the steam tracks is obstructed in either direction by curves. This is a cut crossing, with special work in fair condition, and is protected by gates operated by a man on the ground at all hours of day and night. A flagman is also employed who is on duty from 6 a. m. to 6 p. m. This being a diagonal crossing, the distance between the gates is 171 feet. The maximum number of trains operated over this crossing on the steam road in 24 hours is 165; the minimum number is 136. Electric cars pass over this crossing at intervals from two to 17½ minutes. This crossing should be protected by derailing switches and signals in the electric tracks, interlocked with home and distant signals on the steam road.

On Broadway the single track of this company crosses the single track of the North Shore branch of the Long Island Railroad Company. From the electric track the view of the steam track is obstructed in all directions. Standing on the crossing, a view of the steam track can be had for 150 feet west and for more than 2,000 feet east, the view to the west being obstructed by a sharp curve. This is a cut crossing, with special work in fair condition, and is protected by gates, operated by a man on the ground at all hours of day and night. Bridge Street station of the Long Island Railroad Company is located at this crossing. The maximum number of trains operated over this crossing on the steam road in 24 hours is 72; the minimum number is 64. Electric cars are operated over it at intervals from two and one-half minutes to 10 minutes. This crossing should be protected by derailing switches, and signals in the electric tracks, interlocked with home and distant signals on the steam road.

On Main street, in Flushing, the single track of this company crosses the single track of the North Shore division of the Long Island Railroad. From the electric track the view of the steam road is obstructed in all directions. Standing on the crossing, a view of the steam tracks can be had for 200 feet to the east, and for more than 2,000 feet to the west, the view to the east being obstructed by a tunnel. This is a cut crossing, with special work in fair condition, and is protected by gates operated by a man on the ground at all hours of day and night. The maximum number of trains operated over this crossing of the steam road in 24 hours is 53; the minimum number is 48. Electric cars are operated over it at intervals of from two and one-half to 10 minutes. This crossing should be protected by derailing switches

and signals in the electric tracks, interlocked with home and distant signals on the steam road.

The street on either side of these crossings is on a level at grade with them.

A copy of this report was sent to the New York and Queens County Railway Company, with a letter making the recommendations of the electrical expert the requirements of this Board, under chapter 466 of the Laws of 1898. The company replied, demurring to the requirements of the Board. The matter was again referred to the electrical expert, who made a supplemental report, withdrawing his recommendation that derailing devices should be provided in the street railroad tracks at the Main and Bridge street crossings of the Long Island Railroad, in the village of Flushing, but reiterating his recommendation as to the Borden avenue crossing. The Board thereupon withdrew its requirement as to the Main and Bridge streets crossings, but notified the company that it insisted that its requirements as to the Borden avenue crossing should be complied with. The company replied, stating that it would immediately order derailing switches for the Borden avenue crossing.

In this connection, the Long Island Railroad Company complained to the Board, alleging that the Borden avenue crossing, as then existing, was unsafe. This company was informed of the action of the Board in the matter. The electrical expert has reported that: "In reference to the recommendation of your honorable Board that the Borden avenue crossing of the New York and Queens County Railroad Company's tracks and the Long Island Railroad Company's tracks, be provided with derails and interlocked with signals on the steam road, I would say I am informed by Mr. Potter, general superintendent of the Long Island Railroad, that the details of construction have been completed and the work will be commenced in the near future."

REPORT OF THE ELECTRICAL EXPERT AS TO CROSSINGS OF THE LONG ISLAND ELECTRIC RAILROAD AND STEAM RAILROADS.

June 14, 1899.

I have made an inspection of the steam railroad grade crossings on the Long Island Electric Company's system, and submit the following:

On Liberty avenue the double tracks of this company cross the double tracks of the Long Island Railroad Company's system, being the Jamaica division. This crossing is protected by derails and signals on the electric track, interlocked with home and distant signals on the steam road, operated by a man in a tower at all hours. Cars on the electric road pass this point at a maximum of five minutes interval. No further protection is needed at these crossings.

On South street, in Jamaica, the double tracks of this company cross the single track of the southern division of the Long Island Railroad Company's system. This crossing is open and clear to view in all directions, and is protected by a flagman who has a red flag set on both steam and electric tracks at all times, except when a train or car is to pass the crossing. All trains and cars

come to a stop at this point before the red flag is removed to allow them to cross. Electric cars are operated until 1.10 a. m.

On New York avenue in Jamaica the single track of this company crosses the single track of the Southern division of the Long Island Railroad Company. This crossing is protected in the same manner as the South street crossing. Cars are operated over these crossings on a maximum of five minutes interval. No further protection is needed at these crossings.

In this connection I wish to call the attention of your honorable Board to the fact that in some cases I find that the tower-men keep the derailing switch on the electric tracks set on a straight track, thus preventing the derailment of an electric car, for which purpose the derail was constructed. I make the recommendation that the Long Island Railroad Company instruct their tower-men that the derail switch in electric tracks should not be set on the straight track until the electric car has come to a stop and the conductor has gone forward and is standing on the steam railroad tracks.

A copy of this report was sent to the Long Island Railroad Company, with a letter recommending that the derail switches in the electric railroad tracks, operated by towermen of the Long Island Railroad Company, should not be set on the straight track until the electric car has come to a stop and the conductor has gone forward and is standing on the steam railroad tracks. Some correspondence ensued with the company in reference to this recommendation.

REPORT OF THE ELECTRICAL EXPERT AS TO DERAILING AND SIGNAL DEVICES AT POINTS WHERE THE LONG ISLAND RAILROAD IS CROSSED AT GRADE BY ELECTRIC RAILROADS.

August 22, 1899.

At my request the Long Island Railroad Company has furnished me a detailed description of its derailing and signal devices at points where its tracks are crossed by electric street railway tracks, together with the location of the same, and an accompanying blue-print.

The statement shows that there are 18 crossings of the company's tracks by electric car tracks. Of this number, five are so constructed that the danger signals on the steam road are interlocked with the derail switches on the electric car tracks.

It will be seen that the recent installations of signal and derailing switches at crossing points have been made without signals on the electric roads, and the reasons for doing so, stated in the communication, are to the effect that additional connections have to be made from the tower for them, in the majority of cases, under paved streets, and that the motormen are gov-

erned entirely by the position of the derail, and as a matter of fact, they watch the derail more than they do the signal.

I fully agree with the statement as to the motormen paying more attention to the position of the derail than to the position of the signal on the electric roads; but cannot indorse the general proposition of doing away with the signals on electric roads at such crossing, for the reason that at night, in some cases, the position of the derail cannot be determined until the car is very near it.

In a previous communication to your honorable Board the fact that derails were allowed to remain in the position of "safety" on the electric roads was noted. This I found to be the case on Emmons avenue, where the double tracks of the New York and Manhattan Beach Railroad cross the double tracks of the Nassau Electric road, and on Liberty avenue, where the double tracks of the New York and Rockaway Beach division are crossed by the double tracks of the Long Island Electric Railroad. It will be seen from the description of the derail and signal plants at these points that there are derails in the electric tracks and signals on the steam road, but they are not interlocked, which accounts for the tower-man being able to leave the derail on the electric track set at "safety" without putting the signals on the steam road at "danger."

In my description of safety appliances at the crossings of steam and electric roads submitted some time ago, I stated that the derails on the electric roads were interlocked with signals on steam tracks. This information, which was furnished me by the tower-man, I now find was not correct.

There are thirteen points on the Long Island Railroad Company's system where its tracks are crossed by electric roads, the crossings being protected by derails and signals which are not interlocked. These derails on the electric tracks and the signals on the steam road should, in all cases, be operated as though they interlocked. The derail on the electric should not remain in a position of "safety" after a car has passed over it.

Respectfully submitted,

C. R. BARNES,
Electrical Expert.

REPORT OF THE ELECTRICAL EXPERT AS TO COMPLIANCE BY THE
BUFFALO RAILWAY AND THE CROSSTOWN RAILWAY OF BUFFALO
WITH RECOMMENDATIONS OF THIS BOARD, MADE NOVEMBER 14,
1898.

October 4, 1899.

In the matter of the recommendations of your honorable Board in reference to grade crossing of steam railroads by the Buffalo

Railway and the Crosstown Railway of Buffalo, N. Y., dated October 17, 1898, I enclose a letter from R. E. Danforth in reference to this subject.

I find the statements contained in this letter are correct.

Respectfully yours,

C. R. BARNES,

Electrical Expert.

BUFFALO RAILWAY COMPANY,

BUFFALO, N. Y., September 28, 1899.

MR. CHARLES R. BARNES, *Inspector Board of Railroad Commissioners, Rochester, N. Y.:*

DEAR SIR.—In accordance with your verbal request of to-day, I beg to report as follows upon the progress made in complying with the recommendations of the Board of Railroad Commissioners, made October 17, 1898:

The crossing in Elk street over the tracks of the New York Central and Hudson River Railroad has not been replaced, as we have been requested by the latter company to make no changes, as they expected to change the layout of switches, etc. at this point at once. We have been put off from day to day for six months. They now promise immediate action.

The crossing over the Lake Shore Railroad in Elk street is abandoned pending the erection of a viaduct over this and the crossing of the Erie Railroad.

The crossing of the Nickel Plate, Western New York and Pennsylvania and Buffalo Creek Railroads in Elk street will be abolished probably within the next few months, and a viaduct over same put in. Bids for this work have already been called for.

Work on the subway at the Delaware, Lackawanna and Western Railroad crossing in Elk street will probably be started at once.

The trough recommended over the Broadway crossing of the New York Central and Hudson River Railroad has been installed. We have as yet not received a cut crossing for this place, but expect to make the improvements requested soon.

In all cases copper troughs have been placed over the trolley wire at the points mentioned by you. Derailing switches have been installed as required by you.

Yours very truly,

R. E. DANFORTH,

Superintendent.

MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTION 166 OF THE RAILROAD LAW.

[For the treatment of complaints against corporations coming under the supervision of the Board, the following method of procedure has been adopted: Upon receipt of a complaint a copy of the letter of the complaint is at once forwarded to the officers of the corporation against which complaint is made, with the request to answer within ten days. Reply to the complaint is then transmitted to the complainant, and if the matter is not satisfactorily adjusted by correspondence, a public hearing is had before the Board and such order made as the evidence then adduced seems to warrant. Other matters coming before the Board are governed by rules of procedure, made by it, which rules are published in this volume.]

ALBANY, NOVEMBER 23, 1898.

Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Little Falls and Herkimer Street Railway Company, under section 68 of the Railroad Law, for a determination of how its railroad shall cross the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), on Albany street, in the village of Herkimer. J. D. Henderson and J. D. McMahon for the applicant; Ira A. Place for the New York Central and Hudson River Railroad Company in opposition. After hearing evidence and arguments the evidence was closed. Both sides are to file briefs if they desire to. The Board is to look at the crossing.

Adjourned hearing in the matter of the application of the Rochester and Sodus Bay Railway, under section 59 of the Railroad Law. James M. E. O'Grady and Charles Van Voorhis for the applicant; Ira A. Place for the New York Central and Hudson River Railroad Company (lessee of the Rome, Watertown and Ogdensburg Railroad), in opposition. After hearing evidence and arguments, the hearing was adjourned to Wednesday, December 14, 1898, at Powers Hotel, Rochester, at 10 o'clock a. m. Evidence as to the bona fides of the enterprise was taken in executive session.

Complaints.

George E. Oram against Prospect Park and Coney Island Railroad Company, as to train service. Reply of complainant to answer of company received. Complainant from J. Mullen on the same subject received. Copy of reply of complaint and copy of complaint from J. Mullen sent to

the company. Hearing set down for Tuesday, December 6, 1898, at Fifth Avenue Hotel, Parlor D. R. New York city, at 10 o'clock a. m.

Citizens' Association of Bay Ridge and Fort Hamilton against the Brooklyn Elevated Railroad Company, as to lights in cars and as to alleged danger at the curve at Thirty-seventh street and Third avenue, Brooklyn. Letter received from company, stating the recommendations of the Board will be complied with. Hearing in this matter set down for Tuesday, December 6, 1898, at Fifth Avenue Hotel, Parlor D R, New York city, at 10 o'clock a. m.

A letter was received from I. Fischer, of New York city, complaining as to the operation of express trains on the Manhattan Railway, Third Avenue line, New York city. Ordered letter written complainant, as shown by copy on file.

Fred D. Cotanch, of Freeville, against the Lehigh Valley Railroad Company, as to fences. Answer of the company received, stating that the fences would be rebuilt. Closed.

Leander Brink against the Middletown-Goshen Traction Company, as to alleged abandonment of portion of road. Letter received from Receiver of the company; reply sent, as shown by copy on file.

G. P. Kelley against the Union Railway Company of New York city, as to waiting rooms at transfer stations. Ordered letter written complainant, stating that the Board had investigated this matter and giving results of investigation.

Applications.

In the matter of the application of the Little Falls and Herkimer Street Railway Company, under section 100 of the Railroad Law, for approval of the use of the overhead electrical trolley system as motive power, an affidavit was received from the applicant as to property owners' consents. Ordered filed.

A letter was received from the Lehigh Valley Railroad Company, asking that the Board inspect the location of wrecking tools in the cars of that company. Ordered letter written the company, that the Board is familiar with the location of such tools in its cars, and that the present location of such tools is objectionable, and that the direction contained in the circular of the Board, No. 39, must be complied with.

Application of the Pullman Palace Car Company for approval of the location of wrecking tools in its cars. Ordered approved, as shown by copy of order and blue print on file.

Application of New York Central and Hudson River Railroad Company, for itself and its leased lines, for approval of highway crossing signs. Ordered filed.

Crossings.

In the matter of the application of the New York Central and Hudson River Railroad Company (lessee of the Mohawk and Malone Railway), under section 62 of the Railroad Law, as to discontinuing two crossings of its railroad by the Blue Pond Road, in which an order has been made, a letter was received from Fred P. Calkins, town clerk of Harletstown, where the crossing was situated, stating the town board is ready to make the change as determined by this Board, and asking certain questions. Ordered letter written Mr. Calkins, as shown by copy on file.

In the matter of crossings at grade of steam railroads and the Buffalo City Railway, a letter was received from the company, stating that the recommendations of the Board would have its immediate attention. Ordered filed.

In the matter of the recommendations of the Board, relative to crossings at grade of steam railroads and the Buffalo Crosstown Railroad Company, a letter was received from the company, asking certain modifications of the recommendations of the Board as to the Crosstown and the Buffalo

Railway. Ordered recommendations modified, as shown by letter to the company on file.

In the matter of the application of the town board of Gullford, Chenango county, under section 62 of the Railroad Law, as to Root's and Milk Station crossings of the New York, Ontario and Western Railway, a report was received from the superintendent of the grade crossing bureau; also, a proposition and letter from C. A. Winsor, of Gullford, in regard to the matter in which the change shall be made. Ordered filed.

In the matter of the application of the village of Andover, under section 61 of the Railroad Law, as to the manner in which a new street, known as Harmon street, shall be carried across the Erie Railroad, brief of the applicant was received and ordered filed.

An opinion was received from the Attorney General, in reply to questions of the Board, as to section 62 of the Railroad Law. Ordered filed.

In the matter of the application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to crossing in the town of Glenville, Schenectady county, first crossing west of Rector's, a letter and modified plan was received from the applicant. Ordered filed.

In the matter of the application of the president and board of trustees of the village of St. Johnsville, under section 62 of the Railroad Law, as to carrying Bridge street over the New York Central and Hudson River Railroad, the amended plan was received and ordered filed.

Reports.

Report of the inspector as to special inspection of the Lehigh Valley Railroad, between Auburn and Ithaca. Ordered copy sent company, with letter, making the recommendations of the inspector the recommendations of the Board.

Orders.

Application of the Pullman Palace Car Company for approval of location of wrecking tools in cars. Ordered approved, as shown by copy of order and blue print on file.

Application of the village of Andover, under section 61 of the Railroad Law, as to the manner in which Harmon street shall cross the Erie Railroad. Determination that the crossing shall be made overhead.

Application of the town board of the town of Gullford, Chenango county, under section 62 of the Railroad Law, as to the abolishment of Root's and Milk Station grade crossings of the New York, Ontario and Western Railway. Granted, as shown by copy of determination on file.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to crossing in the town of Glenville, Schenectady county, first crossing west of Rector's. Granted, as shown by copy of determination on file.

Application of the New York Central and Hudson River Railroad Company (lessee of the Mohawk and Malone Railway), under section 62 of the Railroad Law, praying that the Lower Meekerville Road crossing of the Mohawk and Malone Railway, in the town of Forestport, Oneida county, shall be closed and discontinued. Granted, as shown by copy of determination on file.

Application of the president and board of trustees of the village of St. Johnsville, under section 62 of the Railroad Law, as to carrying Bridge street over the New York Central and Hudson River Railroad. Granted, as shown by copy of determination on file.

Bills.

The following bills were approved:

W. McNeilly (postage stamps).....	\$100 00
P. M. Parker (salary).....	150 00
P. M. Parker (expenses).....	28 38
M. D. Tennant (salary).....	150 00
Brandow Printing Company.....	46 94
E. M. Le Munyan (salary).....	150 00
A. L. Judson (expenses).....	30 00
Susan C. Oakley.....	40 00
A. W. Cole (expenses).....	91 10
	<hr/>
	\$784 40

The Board adjourned.

NEW YORK, DECEMBER 5, 1898.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn.

Orders.

Application of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the Ridge Road crossing in town of West Seneca. Determination as shown by copy on file.

The Board adjourned.

NEW YORK, DECEMBER 6, 1898.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

F. E. Tilly against the Long Island Railroad Company, as to abandonment of a station on its Atlantic Division, at City Line, Brooklyn. F. E. Tilly, George Buss, H. A. Guptinn and M. F. Drudy appeared for complainant; Frederick Uhlmann for the Brooklyn Elevated Railroad Company; and A. A. Gardner for the Long Island Railroad. The hearing was closed. A report was received from the electrical expert in regard to this matter.

Citizens' Association of Bay Ridge and Fort Hamilton against the Brooklyn Elevated Railroad Company, as to lights in cars and alleged danger at a curve at Thirty-seventh street and Third avenue, Brooklyn. R. J. Caldwell appeared for complainants; Frederick Uhlmann for the company. The hearing was closed.

In the matter of the complaint of Leander Brink against the Middletown-Goshen Traction Company, William B. Royce, Receiver of the company, appeared and filed its answer to the complaint. Ordered copy sent complainant.

George E. Oram and others against the Prospect Park and Coney Island Railroad Company, as to train service. Patrick O'Beirne and George C. Eldridge appeared for complainants; A. A. Gardner for the Prospect Park and Coney Island Railroad Company. The hearing was closed.

New Lots Improvement Association against the Nassau Electric Railroad Company, as to failure to build a portion of its railroad. W. T.

Paye and Theodore Keindl appeared for complainants; no one for the company. Ordered letter written company, asking it to make answer to the complaint.

New Lots Improvement Association against the Kings County Elevated Railway Company, as to not running trains past the Eastern Parkway Station. W. T. Paye, Theodore Keindl and F. C. W. Peterson appeared for the complainants; W. T. Goundy appeared for the company. The hearing was closed. A report was received from the electrical expert of the Board in regard to the matter.

The adjourned hearing in the matter of the application of The Cross Country Railroad Company, for a certificate under section 59 of the Railroad Law, did not take place on this date, but was adjourned to a date to be hereafter fixed by consent of all persons appearing.

Orders.

Application of the town board of the town of Randolph, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Ireland Road and the Erie Railroad. Determination as shown by copy on file.

Application of the president and trustees of the village of Randolph, under section 62 of the Railroad Law, as to the abolishment of the grade crossings of Fifth avenue and Jamestown street and the Erie Railroad. Determination, as shown by copy on file.

Application of the mayor and common council of the city of Elmira, under section 62 of the Railroad Law, for the abolishment of a grade crossing of Woodlawn avenue and the Erie Railroad. Determination as shown by copy on file.

Application of the mayor and common council of the city of Elmira, under section 62 of the Railroad Law, for the closing and discontinuance of the Reformatory street crossing of the Erie Railroad and the diversion of the travel thereon to Woodlawn avenue undercrossing. Determination, as shown by copy on file.

Bills.

The following bills were approved:

Banks & Brothers.....	\$43 75
Stuart G. Speir.....	1 60
Harry W. Riggs.....	5 00
W. & L. E. Gurley.....	9 60
Thomas J. Cowell.....	130 50
James E. Brazee (salary).....	150 00
Charles H. Clark (salary).....	150 00
Charles H. Clark (expenses).....	13 90
M. D. Tennant (expenses).....	10 00
M. D. Tennant (expenses).....	4 10
Great Bear Spring Co.....	5 40
Hudson River Telephone Co.....	17 29
A. H. Sutermeister (expenses).....	31 39
Hudson Valley Paper Co.....	35 00
Western Union Telegraph Co.....	10 89
American Express Co.....	19 85
National Express Co.....	11 65
George S. Gatchell (expenses).....	25 63
James B. Lyon.....	12 00
E. C. McEntee (expenses).....	12 50
Hitchcock, Darling & Co.....	10 00
E. M. Le Munyan.....	34 50
James E. Brazee (expenses).....	44 65
A. L. Judson.....	17 34

\$806 54

The Board adjourned.

COLDEN, DECEMBER 13, 1898—8:40 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, for the doing away with four highway grade crossings of its railroad in the town of Colden, Erie county, known as Gould's crossing, Hardy's crossing, Underhill crossing, and Norcross crossing, by altering the location of the highway. John S. Rockwell appeared for the applicant; O. J. Colburn, attorney, and Robert G. Crump, supervisor, for the town board of Colden; Stephen J. Hedges and Christian Miller, Howard S. Gould, Albert J. Gould, John Underhill, property owners. After hearing evidence and arguments, the Board inspected the crossings and the hearing was closed.

HARDYS, DECEMBER 13, 1898—11:30 A. M.

Hearings.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company (joined in conditionally by the town board of the town of Gainesville, Wyoming county), under section 62 of the Railroad Law, (appearing on the minutes for the first time to-day), for the abolishment of two grade crossings of its railroad, near its station at "Hardys" or Pike, and the opening of a new crossing above the grade of the railroad. John S. Rockwell appeared for the applicant; Romanzo Perkins, Isaac Stamp, N. Y. Lewis, J. N. Inglesbee, members of the town board, for the town; Henry Dolph and George Dolph, property owners. After hearing evidence and arguments the Board inspected the crossings proposed to be abolished and the new crossing proposed to be located above grade, and the hearing was closed.

LEROY, DECEMBER 13, 1898—1:30 P. M.

Hearings.

Petition of the town board of the town of LeRoy, Genesee county (in which the Buffalo, Rochester and Pittsburgh Railway Company joins), under section 62 of the Railroad Law, that the LeRoy and Roanoke road be carried over the Buffalo, Rochester and Pittsburgh Railway by a bridge at a point known as Haskin's crossing. John S. Rockwell appeared for the company; Clarence Bryant, member of the town board, for the town. After hearing evidence and arguments, the Board inspected the crossing and the case was closed. It was agreed by the joint petitioners that the plans and specifications for the bridge structure should be changed so as to provide for a roadway of sixteen feet in the clear instead of fifteen feet.

MUMFORD, DECEMBER 13, 1898—3:15 P. M.

Hearings.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, for an alteration in the location of a highway known as the Guthrie road, near Mumford station, in the

town of Wheatland, Monroe county (appearing on the minutes for the first time to-day). John S. Rockwell appeared for the applicant; John Shandler, member of the town board, and a majority of the town board for the town; William S. McKenzie, Andrew Guthrie, David Nichols, Thomas Fitzgerald and William Robertson, property owners, in opposition. After hearing evidence and arguments and inspecting the crossing, the hearing was closed.

The Board adjourned.

ROCHESTER, DECEMBER 14, 1898.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Rochester and Sodus Bay Railway Company for a certificate under section 59 of the Railroad Law. James M. E. O'Grady and Charles Van Voorhis appeared for the applicant; Ira A. Place and Albert H. Harris for the New York Central and Hudson River Railroad Company (lessee of the Rome, Watertown and Ogdensburg Railroad) in opposition. After hearing evidence and arguments a recess was taken in this case until 1.45 p. m.

ROCHESTER, DECEMBER 14, 1898.—12 M.

Hearings.

Continuation of morning session.

Application of the town of Leicester, Livingston county, under section 61 of the Railroad Law, relative to the manner in which a new highway shall cross the Western New York and Pennsylvania Railway, near the Delaware, Lackawanna and Western Railroad junction. L. C. Pelton, highway commissioner, appeared for the applicant; William W. Willard, representing William Wadsworth, a property owner, and John F. White, a property owner appeared; A. V. Cooley, member of the town board, and representing the supervisor of the town, also appeared; no one appeared for the railroad company, but a telegram was received from it, asking that its attorney, Frank Rumsey, be heard in the matter in Buffalo, December 15, which request was granted.

Recess until 1.45 p. m.

AFTER RECESS—1.45 P. M.

The Board resumed the hearing in the matter of the application of the Rochester and Sodus Bay Railway Company for a certificate under section 59 of the Railroad Law. Appearances as in the morning. The hearing of evidence was resumed. After hearing further evidence and arguments the hearing was closed, except that the railroad company reserved the right to call its general superintendent, E. Van Etten, and the applicant reserved the right to rebut the testimony of Mr. Van Etten. The matter is to be summed up in Albany, January 6, 1899.

The Board adjourned.

DUNKIRK, DECEMBER 15, 1898—11 A. M.

Hearings.

Petition of the town board of the town or Carroll, Cattaraugus county, for an alteration in the location of a highway known as the Falconer road, so that it shall not cross the Dunkirk, Allegheny Valley and Pittsburgh Railroad at two points, known as the Tracy crossing and the Lawson crossing. A. M. Woodcock, town clerk, appeared for the applicant; D. C. Moon, superintendent, for the railroad company. After hearing evidence and arguments the hearing was closed.

Petition of the town board of the town of Sheridan, Chautauqua county, for the abolishment of the grade crossings known as Herrick's crossing and the Red House crossing of the Western New York and Pennsylvania and the New York, Chicago and St. Louis railroads and the construction of an undercrossing. R. A. Shelley, town clerk, and Christian N. Dye, highway commissioner, for the town board; D. W. Herrick, property owner; Frank Rumsey for the Western New York and Pennsylvania Railway Company; John G. Milburn for the New York, Chicago and St. Louis Railroad Company. This matter appeared on the minutes for the first time to-day. After hearing evidence and arguments the hearing on the merits was closed, but an adjournment was taken to a date to be hereafter fixed, when the railroad companies will discuss the matter of the proportions to be borne by them respectively if the changes are ordered.

Adjourned to Buffalo, 4 p. m.

BUFFALO, DECEMBER 15, 1898—4 P. M.*Hearings.*

In the town of Leicester application, Frank Rumsey for the Western New York and Pennsylvania Railway Company was heard, and a determination was made.

Adjourned hearing in the matter of the application of the town of Holland, Erie county, under section 62 of the Railroad Law, for the abolishment of the grade crossing of the Western New York and Pennsylvania Railway and the Crosby road. William B. Jackson, supervisor, Lyman P. Jacobs, C. W. Whitney and Myron J. Brown, justices of the peace, appeared for the town board; Frank Cooper, highway commissioner, also appeared; Frank Rumsey appeared for the company. Plans for the proposed overcrossing were submitted to the Board. The matter was closed.

Orders.

Petition of the town of Leicester, Livingston county, under section 61 of the Railroad Law, as to the laying out of a new highway across the Western New York and Pennsylvania Railway, near the Delaware, Lackawanna and Western Railroad junction. Determination as shown by copy on file.

Petition of the town of Holland, Erie county, under section 62 of the Railroad Law, for the abolishment of the grade crossing of the Western New York and Pennsylvania Railway and the Crosby road. Determination, as shown by copy on file.

The Board adjourned.

ALBANY, DECEMBER 21, 1898.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The Board considered and adopted its annual report to the Legislature. The Board adjourned.

ALBANY, DECEMBER 22, 1898.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Complaints.

F. N. Dounce, of Elmira, against the Delaware, Lackawanna and Western Railroad Company as to switching. Closed.

G. P. Kelley against the Union Railway Company of New York city, as to waiting rooms at transfer stations. Letter received from company, stating that they will try to make arrangements as to keeping open, during the hours when cars are running, a booth located at the intersection of One Hundred and Thirty-eighth street and the Boulevard. Letter written Mr. Kelley to this effect.

C. E. Watkins and others against the Long Island Railroad Company, as to keeping open the station at Miller Place. Report of the inspector received. Ordered copy of inspector's report sent to complainants.

I. Fischer against the Manhattan Railway Company, as to operation of express trains on Third avenue. Report of the electrical expert of his investigation of the complaint received. Ordered letter written complainant as shown by copy on file, and case closed.

E. Platt Stratton against the New York and Queens County Railway Company, as to operation of cars in College Point and to the Ninety-ninth street ferry to New York. Copy sent company; answer of company received; copy sent complainant; reply of complainant received. Report of electrical expert received. Ordered that a copy of the report of the electrical expert be sent to the company, with a recommendation that a suitable waiting room be established at the intersection of Lawrence street and Broadway, where the College Point line terminates, and which is a transfer point. Closed.

J. H. Halpin against the Manhattan Railway Company, as to the operation of shuttle train on Sixth avenue between Fifth and Fifty-eighth streets. Report of electrical expert received. Closed.

A. Ernest against the Long Island Railroad Company and the Brooklyn Elevated Railroad Company, as to operation of trains. Answer of the companies received. Ordered letter written complainant, as shown by copy on file. Closed.

C. Barton, of Union, Broome county, against the Erie Railroad Company, relative to highway crossing alarm bell. Ordered complaint sent company.

Water board of the city of Auburn against the Auburn City Railway Company. (This matter had been reopened). Closed.

W. K. Squier and others of Syracuse against the Syracuse Rapid Transit Company as to the service on the East Genesee street division of that railroad. Closed.

Applications.

Application of the New York Central and Hudson River Railroad Company for approval of an interlocking switch and signal system at a point where the Terminal Railway of Buffalo and the Western New York and Pennsylvania Railway cross at grade. Granted.

Application of the Newburgh, Dutchess and Connecticut Railroad Company, under section 34 of the Railroad Law, for permission to discontinue the Clove Branch Junction station as an agent station, making it a

"flag stop" only. Ordered hearing set down for Tuesday, January 3, 1890, at 10 o'clock a. m., at Albany.

Application of the Delaware, Lackawanna and Western Railroad Company for approval of an interlocking switch and signal devise at the crossing of its railroad and the Western New York and Pennsylvania Railway, west of Mount Morris. Granted.

Crossings.

Application of the president and board of trustees of the village of Pulaski, under section 62 of the Railroad Law, for the abolishment of the grade crossings of Rome and Salina streets and the Rome, Watertown and Ogdensburg Railroad (leased to the New York Central and Hudson River Railroad Company). Ordered that the superintendent of the grade crossing bureau make an inspection and report.

Application of the president and board of trustees of the village of Chaumont, under section 62 of the Railroad Law, for the abolishment of the grade crossing of Phelps street and the Rome, Watertown and Ogdensburg Railroad (leased to the New York Central and Hudson River Railroad Company). Report of the superintendent of the grade crossing bureau was received.

Application of the town board of the town of Poland, under section 61 of the Railroad Law, for the establishment of a new crossing by a highway of the Erie Railroad. Ordered carried on file.

In the matter of the application of the city of Corning, under section 62 of the Railroad Law, for the abolishment of the grade crossing of East First street of the Erie railroad, a letter was received from the mayor of the city, stating that the common council had adopted a resolution that the project be abandoned for the present. Ordered case closed until further action by the city.

A letter was received from residents of Binghamton, asking that Bevier street in said city be carried under the railroads of the Delaware, Lackawanna and Western Railroad Company and the Albany and Susquehanna Railroad Company (leased to the Delaware and Hudson Canal Company). Ordered letter written petitioners that, under the law, application must be made by the local authorities. Ordered letter written the mayor of the city, as shown by copy on file.

Petition of the town board of the town of Altamont, Franklin county, under section 61 of the Railroad Law, as to the establishment of a new highway crossing of the New York and Ottawa Railroad. Ordered carried on file.

In the matter of the application of the city of Mount Vernon, under section 61 of the Railroad Law, as to carrying North Third avenue across the New York, New Haven and Hartford Railroad, a letter was received from the mayor of the city, stating that the proposals and estimate of the cost of the bridge submitted by the company are satisfactory to the city. Ordered proposals approved and company notified.

Orders.

Application of the New York Central and Hudson River Railroad Company for approval of an interlocking switch and signal system at a point where the Terminal Railway of Buffalo (lessor) and the Western New York and Pennsylvania Railway cross at grade. Granted.

Application of the Delaware, Lackawanna and Western Railroad Company for approval of an interlocking switch and signal device where its railroad and the Western New York and Pennsylvania Railway cross at grade, west of Mount Morris. Granted.

George E. Oram and others against the Prospect Park and Coney Island Railroad Company, as to train service. Ordered complaint dismissed.

Citizens' Association of Bay Ridge and Fort Hamilton against the Brooklyn Elevated Railroad Company. Complaint dismissed.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, for the doing away with four highway grade crossings of its railroad in the town of Colden, Erie county, known as Gould's crossing, Hardys crossing, Underhill crossing and Norcross crossing, by altering the location of the highway. Determination as shown by copy on file.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company (joined in by the town board of the town of Gainesville, Wyoming county), under section 62 of the Railroad Law, for the abolishment of two grade crossings of its railroad, near its station at "Hardys" or Pike, and the opening of a new crossing above the grade of the railroad. Determination as shown by copy on file.

Petition of the town board of the town of LeRoy, Genesee county (in which the Buffalo, Rochester and Pittsburgh Railway Company joins), under section 62 of the Railroad Law, that the LeRoy and Roanoke road be carried over the Buffalo, Rochester and Pittsburgh Railway by a bridge at a point known as Haskin's crossing. Determination as shown by copy on file.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, for an alteration in the location of a highway known as the Guthrie road, near Mumford station, in the town of Wheatland, Monroe county. Determination as shown by copy on file.

Application of the town of Carroll, under section 62 of the Railroad Law, for an alteration in the location of a highway known as the Falconer road, abolishing the Tracy and Lawson grade crossings of the Dunkirk, Allegheny Valley and Pittsburgh Railroad. Determination as shown by copy on file.

Bills.

The following bills were approved:

General expenses.

Geo. W. Dunn (travelling expenses).....	\$60 00
Postal Telegraph Cable Company (for November)...	21 09
Albany District Telephone Co. (for November).....	2 55
Harry W. Riggs	3 00
	<hr/>
	\$86 64

Expenses grade crossing department.

Geo. W. Dunn (travelling expenses).....	\$60 00
John S. Kenyon (travelling expenses)	7 50
E. C. McEntee (travelling expenses).....	15 00
M. D. Tennant (travelling expenses, etc.).....	14 10
	<hr/>
	\$96 60
	<hr/>
Grand total	\$183 24

The Board adjourned.

ALBANY, JANUARY 3, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of December 13, 14, 15, 21 and 22 were read and approved.

Hearings.

Application of the Syracuse, Skaneateles and Moravia Railroad Company for a certificate under section 59 of the Railroad Law. This hearing had been adjourned from this date, but, inasmuch as the applicant appeared by Wing T. Parker, the application was presented and the evidence of one witness, in favor, was heard. Adjourned until Tuesday, January 10th, at the Moravia House, Moravia, N. Y., at 10 o'clock a. m.

Complaints.

D. F. Estes against the New York Central and Hudson River Railroad Company, relative to alleged overcharge in passenger fare, on a through ticket over the New York Central and Hudson River and the New York, Ontario and Western Railroads from Albany to Hamilton, N. Y. Copy sent New York Central and Hudson River Railroad Company.

George B. Paterson, of Burdett, against the Lehigh Valley Railroad Company, as to cessation of operation of passenger train. Copy sent company.

New Lots Improvement Association against the Nassau Electric Railroad Company, as to failure to build a portion of its railroad. Answer of company received. Copy of answer sent complainant, and the matter referred to the electrical expert for a report.

W. F. Persons against Western New York and Pennsylvania Railway Company, relative to alleged discrimination in the transportation of newspapers. Copy sent company.

William R. Barr, asking for certain information as to the Syracuse, Binghamton and New York Railroad Company, Mr. Barr stating that he was a stockholder of the company. Letter written to the company as shown by copy on file.

Applications.

In the matter of the application of the Buffalo Traction Company, under section 68 of the Railroad Law, as to its railroad crossing the New York Central and Hudson River and the Erie Railroads, a letter was received from the applicant, asking permission to withdraw its application without prejudice to its making a new application when the company is prepared to proceed. Ordered request granted, the papers to remain on file in this office.

Application of the Ogdensburg and Lake Champlain Railway Company for approval of highway crossing sign. Ordered filed.

Crossings.

A letter was received from the New York, Chicago and St. Louis Railroad Company, stating that a highway crossing alarm bell is in process of installation at Fink's crossing, near Dunkirk, as directed by this Board.

Application of the town board of the town of Newstead, in the county of Erie, under section 62 of the Railroad Law, for the abolishment of a grade crossing of the New York Central and Hudson River Railroad and Buell street, in the village of Akron. Ordered carried on file.

In the matter of the application of the town board of Sheridan, under section 62 of the Railroad Law, a letter was received from George E. McLaury, supervisor of the town, asking that proceedings under the application be suspended, at least for the present, or, if not, that a further hearing be given the town. Ordered carried on file.

In the matter of the application of the mayor and the common council of the city of Corning (withdrawn), under section 62 of the Railroad Law, as to the crossing of First street and the Erie Railroad, in said city, a letter was ordered written the city and company, as shown by copy on file, making inquiry as to an undercrossing for foot passengers at First street.

In the matter of the application of the town board of the town of Schaghticoke, Rensselaer county, under section 62 of the Railroad Law,

as to the abolishment of a grade crossing of the Fitchburg Railroad, a letter was received from the town clerk, stating that the town and the railroad company had agreed that for the present "it will be sufficient to lengthen the approaches to the crossing and put up guard rails." Ordered carried on file.

Reports.

Report of the inspector as to an accident on the New York Central and Hudson River Railroad, December 13, 1898, near Looneyville, where a train struck and killed men shoveling snow. Ordered filed.

Report of the inspector as to the condition of the ties on a small opening near Beaver Creek bridge on the New York, Chicago and St. Louis Railroad, about three miles east of Dunkirk, that new ties will be placed on the structure as soon as the weather will permit.

Report of the inspector as to the accident which occurred to the Empire State Express, on the New York Central and Hudson River Railroad, at Utica, on December 28, 1898. Ordered letter written company, as shown by copy on file.

Report of the superintendent of the grade crossing bureau, as to signals at the Troy and Green Island railroad bridges. Ordered recommendations sent the Troy Union Railroad and the Delaware and Hudson Canal Company, as shown by copy of letters on file.

A letter was received from the Lehigh Valley Railroad Company, stating that it is complying as rapidly as possible with the requirement contained in circular No. 39 of this Board, relative to location of wrecking tools in passenger cars.

Bills.

The following bills were approved:

Grade crossing expenses.

A. H. Sutermeister	\$32 55
Charles H. Clark	38 50
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	\$71 05
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The Board adjourned.

ALBANY, JANUARY 6, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of January 3 were read and approved.

Hearings.

Adjourned hearing in the matter of the application of the Rochester and Sodus Bay Railway Company for a certificate under section 59 of the Railroad Law. James M. E. O'Grady and Charles Van Voorhis appeared for the applicant; Ira A. Place and Albert H. Harris for the New York Central and Hudson River Railroad Company (lessee of the Rome, Watertown and Ogdensburg railroad), in opposition. The evidence was closed and the matter was summed up and submitted.

In the matter of the application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossings at Livingston avenue and Spencer street, in the city of Albany, Ira A. Place for the applicant; John A. Delehanty for the city, appeared before the Board in reference to the question of paving.

Complaints.

Leander Brink against the Middletown-Goshen Traction Company, relative to alleged abandonment of a portion of its route. Reply of complainant to answer of company received. Ordered letter written complainant, dismissing the case, on the ground that the company is now in the hands of a receiver. Closed.

In the matter of the complaint of the New Lots Improvement Association against the Kings County Elevated Railway Company, as to certain trains not running past the Eastern Parkway station, a letter was received from the company, stating that the Eastern Parkway station has been boarded up and that the interior arrangements of the station have been so altered as to admit of twenty-five additional passengers. Ordered copy sent complainants.

C. Barton, of Union, Broome county, against the Erie Railroad Company, as to highway crossing alarm bell. Answer of company received, stating that the bell has been relocated. Ordered copy sent complaint, and case closed.

Applications.

Application of the Metropolitan Street Railway Company and the Broadway and Seventh Avenue Railroad Company for approval of the use of an underground current of electricity, electric storage batteries or compressed air motors in the operation of a portion of the railroads of the applicants. Ordered hearing set down for Tuesday, January 17, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

In the matter of the application of the New York and Harlem Railroad Company and the Metropolitan Street Railway Company, its lessee, for approval of the use of an underground current of electricity in the operation of portions of their railroads, and also upon the railroad now constructed in transverse road No. 3, in the Central Park, between Eighth avenue and Fifth avenue. Ordered hearing set down for Tuesday, January 17, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

The adjourned hearing in the matter of the application of The Cross Country Railroad Company, for a certificate under section 59 of the Railroad Law, was set down for Tuesday, January 17, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

Crossings.

In the matter of the application of the village of Shortsville, Ontario county, under section 62 of the Railroad Law, as to abolishing the grade crossing of East avenue and the Auburn Branch of the New York Central and Hudson River Railroad, in which a determination has been made by this Board, a letter was received from the village relative to the estimate of the cost of doing the work, submitted by the railroad company. Ordered letters written the village and railroad company, as shown by copies on file.

In the matter of the application of the village of Herkimer, under section 61 of the Railroad Law, as to the manner in which Folts street, in said village, shall cross the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), a report of the superintendent of the grade crossing bureau of his inspection of the proposed point of crossing was received. Ordered filed.

In the matter of the application of the town board of the town of Holland, Erie county, under section 62 of the Railroad Law, as to abolishing the grade crossings of the Crosby road and the Western New York and Pennsylvania Railway, in which a determination has been rendered by this Board, plans and specifications for the work were submitted to the Board by the company. Ordered plans and specifications approved.

Orders.

In the matter of the application of the village of Herkimer, under section 61 of the Railroad Law, as to the manner in which Folts street, in said village, shall cross the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company). Determination that the street shall be carried over the railroad above grade.

It was ordered that the electrical expert make an inspection and report as to electrolysis in the structure of the Manhattan Railway Company, and he was authorized to employ an assistant at five dollars per day and expenses.

The Board determined to investigate the subject of brakes for street cars, and the secretary was instructed to issue notices of tests to be made, applications from owners of brakes to be received until April 1, 1899.

Bills.

The following bills were approved:

General expenses.

National Press Intelligence Company.....	\$14 50
Great Bear Spring Company	6 60
Hudson River Telephone Company.....	23 14
Postmaster, Albany	4 90
Postal Telegraph Cable Company.....	13 38..
Western Union Telegraph Company.....	6 81
National Express Company.....	10 70
American Express Company.....	9 15
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	\$89 18

The Board adjourned.

MORAVIA, JANUARY 10, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Syracuse, Skaneateles and Moravia Railroad Company, for a certificate under section 59 of the Railroad Law. Hull Greenfield and Wing T. Parker for the applicant; Ira A. Place for the New York Central and Hudson River Railroad Company. In opposition; Robert E. Drake for the Syracuse Rapid Transit Railway Company, in opposition; George Barrow for the Skaneateles Railroad Company, in opposition. The attorneys in opposition raised questions as to the form of the articles of association of the applicant company, and at the request of the applicant the hearing was adjourned until Tuesday, January 24, at 11:30 a. m., at the office of the Board in Albany, when the questions raised as to the articles of association will be argued. No testimony was taken at this hearing. The Board adjourned.

ALBANY, JANUARY 13, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn.

The minutes of the meetings of January 6 and 10 were read and approved.

Complaints.

George B. Paterson, of Burdett, against the Lehigh Valley Railroad Company, as to cessation of operation of passenger train. Answer of the company received; copy sent complainant.

W. F. Persons, of Delavan, against the Western New York and Pennsylvania Railway Company, relative to alleged discrimination in the transportation of newspapers. Letter received from company, stating that the matter would be investigated. Copy sent complainant.

D. F. Estes against the New York Central and Hudson River Railroad Company, relative to alleged overcharge in passenger fare, on through ticket over the New York Central and Hudson River and the New York, Ontario and Western Railroads, from Albany to Hamilton, N. Y. Answer of company received; copy sent complainant.

Mrs. A. J. McDonald against the Lehigh Valley Railroad Company, in regard to fences. Closed.

Candee & Brown against the New York Central and Hudson River Railroad Company (reopened), in regard to weight charged for in shipment of boxes of oranges. Closed.

William C. Smyth against the Nassau Electric Railroad Company, as to noise made by cars on Marcy avenue, Brooklyn. Copy sent company, and ordered that the electrical expert make an investigation.

F. K. Baxter against the New York Central and Hudson River Railroad Company, as to condition of the West Shore depot at Utica. Copy sent company.

In the matter of the complaint of citizens of Germantown against the New York Central and Hudson River Railroad Company, relative to new stations, a letter was received from the company, stating that the station building at Germantown has been constructed. Ordered copy of letter sent complainants and case closed.

In the matter of the complaint of R. B. Wands against the Delaware and Hudson Canal Company and the West Shore Railroad Company, as to freight station at Voorheesville, a letter was received from complainant, as to the building of a station by the Delaware and Hudson Canal Company. The case was reopened and copy of complainant's letter sent to the Delaware and Hudson Canal Company; an answer was received from the Delaware and Hudson Canal Company, stating that it is the intention of that company, early next spring, to build a freight house at Voorheesville; copy sent complainant. Closed.

In the matter of a letter received from William R. Barr, asking for certain information as to the Syracuse, Binghamton and New York Railroad Company, a letter was received from the company giving the information. Ordered copy sent Mr. Barr.

Applications.

In the matter of the application of the Newburgh, Dutchess and Connecticut Railroad Company, under section 34 of the Railroad Law, as to discontinuing the Clove Branch station as an agent station, a hearing was ordered set down for Tuesday, January 24, at 10 o'clock a. m., in Albany.

Reports.

In the matter of an accident on the Mohawk Division of the New York Central and Hudson River Railroad Company, at Herkimer, January 6, 1899, where a trestle fell, a report was received from the superintendent of the grade crossing bureau of his investigation. Ordered filed.

In the matter of the accident to the Empire State Express, on the New York Central and Hudson River Railroad, on December 28, 1898, a letter was received from the company. Ordered filed.

Resolution.

The following resolution was adopted.

Resolved. That all correspondence with railroads, either by the Board or any member of the Board, shall be made a part of the records of this office.

Bills.

The following bills were approved:

General expenses.

George S. Gatchell (expenses).....	\$11 22
Albany District Telegraph Company.....	3 05
Albert L. Judson.....	200 00
John Crayton	12 86
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	\$227 13

Grade crossing expenses.

W. and L. E. Gurley	16 78
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	\$243 91

The Board adjourned.

NEW YORK, JANUARY 17, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

The adjourned hearing in the matter of the application of The Cross Country Railroad Company, for a certificate under section 59 of the Railroad Law, which was set down for this date, was further adjourned by consent of counsel; Walter F. Wood representing Tracy, Boardman & Platt and W. J. Kelly appearing and asking for the adjournment. No appearance was made on behalf of the applicant.

Application of the New York and Harlem Railroad Company and the Metropolitan Street Railway Company, its lessee, for approval of the use of an underground current of electricity, in the operation of portions of their railroads, and also upon the railroad now constructed in transverse road No. 3, in the Central Park, between Eighth avenue and Fifth avenue. H. A. Robinson appeared for the applicant; Paul B. Williams, W. G. Roberts, representing Charles W. Mather, and D. Strauss in opposition as to that portion of the route on East Eighty-fifth street, on the ground that the street is not wide enough for double tracks operated by improved motive power. The hearing was closed. The electrical expert was directed to make an inspection and report as to the streets to which the application refers.

Application of the Metropolitan Street Railway Company and the Broadway and Seventh Avenue Railroad Company for approval of the use of an underground current of electricity, electric storage batteries or compressed air motors in the operation of a portion of the railroads of the applicants. H. A. Robinson appeared for the applicant; no one in opposition. The hearing was closed. The electrical expert was ordered to make an inspection and report as to the streets to which the application refers.

The Board adjourned.

ALBANY, JANUARY 18, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of January 13 were read and approved.

Complaints.

C. E. Watkins against the Long Island Railroad Company, relative to station at Miller Place, Suffolk county. Closed.

In the matter of the complaint of the New Lots Improvement Association against the Nassau Electric Railroad Company, the electrical expert reported results of his inspection of the route of the company upon which it has not built. Ordered complaint dismissed.

In the matter of the complaint of G. P. Kelley against the Union Railway of New York city, the electrical expert reported that arrangements had not been made as to keeping open a shanty at the Boulevard and One Hundred and Thirty-eighth street, New York city. Ordered letter written the company, as shown by copy on file.

In the matter of the complaint of E. Platt Stratton against the New York and Queens County Railway Company, the electrical expert reported that the company had not established a waiting station at Broadway and Lawrence street, College Point, as requested by the Board. Ordered letter written the company, as shown by copy on file.

Letter from William R. Barr thanking the Board for information received from the Syracuse, Binghamton & New York Railroad Company. Closed.

Crossings.

Petition of the town board of the town of Leicester, Livingston county, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Mount Morris road and the Delaware, Lackawanna and Western Railroad. Ordered letter written applicant, as shows by copy on file.

Report of the superintendent of the grade crossing bureau as to plan and estimate for the abolishment of the grade crossing of the Rome, Watertown and Ogdensburg Railroad, in the village of Adams, was received and ordered filed.

In the matter of the application of the town board of the town of Schaghticoke, Rensselaer county, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of the Fitchburg Railroad. Ordered letter written the applicant and the railroad company, as shown by copies on file, that the Board will give them a further hearing on Wednesday, January 25, 10 a. m., in Albany, in the matter.

In the matter of the application of the town board of the town of Sheridan, Chautauqua county, a letter was ordered written to the supervisor of the town, George E. McLaury, as shown by copy on file, stating that he may have a further hearing before the Board on Wednesday, January 25th, 10 a. m., in Albany.

The inspector reported that the Ogdensburg Street Railway Company has not complied with the requirement of the Board that derailing switches be placed at its crossing with the Rome, Watertown and Ogdensburg Railroad. Ordered letter written the company, as shown by copy on file.

It was ordered that letters be sent to supervisors of towns and to railroad companies, as shown by copies on file, in reference to future applications under the grade crossing law.

Reports.

Report of the inspector as to accident at Chenango Bridge station on the Syracuse, Binghamton and New York Railroad, January 3, 1899. Ordered filed.

Bills.

The following bill was approved:

General expenses.

Harry W. Riggs	\$3 00
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The Board adjourned.

ALBANY, JANUARY 24, 1890.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of January 17 and 18 were read and approved.

Hearings.

The adjourned hearing in the matter of the application of the Syracuse, Skaneateles and Moravia Railroad Company, under section 59 of the Railroad Law, was postponed to a date to be hereafter fixed, the company having notified the Board that it intended to file an amended certificate of incorporation. When the hearing is held it will be upon the power of the company to proceed under such an amended certificate.

Application of the Newburgh, Dutchess and Connecticut Railroad Company, under section 34 of the Railroad Law, for consent to discontinue the keeping of an agent at its Clove Branch station and make that station a "flag stop" only. G. Hunter Brown appeared for the company; no one in opposition.

Complaints.

In the matter of the complaint of E. Platt Stratton against the New York and Queens County Railway Company, a letter was received from the company in regard to the establishment of the waiting room at Lawrence street and Broadway, recommended by the Board to be established. Answer sent as shown by copy on file.

Resolutions.

The following resolutions were adopted:

Whereas, in the opinion of the Board, it is necessary that the inspector of steam railroads should make his headquarters in the city of Albany; and

Whereas, Inspector George S. Gatchell has informed the Board that he is unable to comply with such requirements; therefore

Resolved, That the resignation heretofore filed of said Inspector George S. Gatchell be and the same is hereby accepted, to take effect on the first day of February next.

Resolved, That W. H. Welch be and he is hereby appointed inspector of steam railroads, in accordance with the provisions of section 153 of the Railroad Law, such appointment to take effect on the first day of February next.

Recess until 2:30 p. m.

AFTER RECESS—2.30 P. M.

A letter was received from A. H. Schwartz, superintendent of the Syracuse, Binghamton and New York Railroad Company, relative to the accident at Chenango Bridge station, on that road, January 3. Ordered filed.

Crossings.

Survey and estimate as to the abolishment of grade crossing at Pulaski was submitted to the Board by the superintendent of the grade crossing bureau.

In the matter of the application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossings at Livingston avenue and Spencer street, in the city of Albany, a letter was received from the company as to paving. Ordered filed.

Several letters were received from railroad companies and local authorities as to progress made in the abolishment of grade crossings, the determinations in which have heretofore been made by the Board. Ordered filed.

A letter was received from A. J. Johnson, superintendent of the Buffalo, Rochester and Pittsburgh Railway Company, as to changing the switches at the Main street crossing in the village of Gainesville, so as to get rid of switching over that crossing. Ordered copy sent the town board.

In the matter of the recommendation of the Board as to derailing switches at a point where the Ogdensburg Street Railway crosses the Rome, Watertown and Ogdensburg Railroad, on River street, in the city of Ogdensburg, a letter was received from the company, stating that the material would be ordered and placed in position as soon as the weather permits. Ordered that a letter be written to the company as to precaution taken at the crossing pending the installation of derailing switches.

A letter was received from the Erie Railroad Company, in response to an inquiry from this Board, to the refusal to join in an application for the opening of an undergrade foot-way at the point where First street, in the city of Corning, crosses its railroad, the regular application, under section 62, in regard to which was abandoned by the city for the present. Ordered filed.

Orders.

Application of the Rochester and Sodus Bay Railway Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the Livingston avenue and Spencer street crossings, in the city of Albany. Determination as shown by copy on file, based upon the approximate estimate of cost filed with this Board January 19, 1899.

F. E. Tilly against the Long Island Railroad Company, as to abandonment of station on its Atlantic Avenue Division, Brooklyn, at City Line. Ordered letter written the company, stating that the station had not been abandoned in accordance with law, and that it must be restored.

Application of the Newburgh, Dutchess and Connecticut Railroad Company, under section 34 of the Railroad Law. Granted.

Bills.

The following bills were approved:

Grade crossing expenses.

P. M. Parker	\$13 60
Smith Premier Typewriter Company	84 00
Smith Premier Typewriter Company	6 00
Street Railway Publishing Company.....	7 00
William McNeilly (postage stamps).....	100 00
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	\$210 60
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The Board adjourned.

MINUTES OF THE BOARD.

ALBANY, JANUARY 25, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Complaints.

In the matter of the complaint of E. Platt Stratton against the New York and Queens County Railway Company, as to waiting room at Lawrence street and Broadway, College Point, a letter was received from the company, stating that if it fails to secure a small building which is at the point in question, it will arrange to place an old car, heated, pending the construction of a new building by the company, in which will be a waiting room. Ordered copy of letter sent complainant. Closed.

Crossings.

In the matter of the application of the town board of Sheridan, under section 62 of the Railroad Law, a letter was received from George E. McLaury, supervisor of the town, as to laying out the location of a highway so as to avoid crossings at grade instead of an undercrossing. Ordered that the superintendent of the grade crossing bureau make an inspection and report.

In the matter of the application of the town of Adams, under section 62 of the Railroad Law, a letter was received from the town clerk, stating that the estimate of expense is so high that the application will not be pressed. Ordered carried on file.

Adjourned until 2.30 p. m.

AFTER RECESS—2.30 P. M.

A communication was received from W. H. Welch, declining the appointment of inspector for the Board.

Resolution.

The following resolution was adopted:

Resolved, That Jefferson D. Shultz be appointed inspector for the Board, to take effect February 1, 1899, at a salary of \$3,000 a year.

The Board adjourned.

ALBANY, JANUARY 31, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of January 24 and 25 were read and approved.

Complaints.

F. K. Baxter against the West Shore Railroad Company, as to passenger station. Answer of company received; copy sent complainant; answer of complainant received. Ordered filed.

In the matter of the complaint of William C. Smyth against the Nassau Electric Railroad Company, as to flat wheels on cars run on its Marcy avenue line, a report was received from the electrical expert. Ordered copy sent the complainant and copy sent the company, with a recommendation that the cause of the complaint be remedied.

Reports.

Report of the electrical expert as to his inspection of a part of the line of the Metropolitan Street Railway Company and the Broadway and Seventh Avenue Railroad Company, application as to motive power on which is pending. Ordered filed.

Report of the electrical expert as to his inspection of a part of the railroad of the New York and Harlem Railroad Company, in the city of New York, application as to motive power on which is pending. Ordered filed.

Report of the inspector stating that new ties have been placed on small opening near the Beaver Creek bridge on the New York, Chicago and St. Louis Railroad. Ordered filed.

Crossings.

Application of the Syracuse, Lakeside and Baldwinsville Railway Company, under section 68 of the Railroad Law, as to crossing a track of the Delaware, Lackawanna and Western Railroad, near Long Branch, on Onondaga Lake, when such track is not being operated. Ordered filed.

Report of the electrical expert as to his inspection of points where the Binghamton street railroad and steam railroads cross at grade. Ordered copy sent the company, with letter, making the recommendations of the electrical expert the recommendations of the Board.

In the matter of the petition of the town board of Schodack, Rensselaer county, relative to the abolishment of three grade crossings, a determination in which has been made by the Board, proposals for doing the masonry work were submitted to the Board by the Boston and Albany Railroad Company. Ordered that the proposal of John Donohue, to wit: thirty cents per cubic yard for excavating and \$6.95 per cubic yard for masonry, be approved.

A letter was received from William E. Hoyt, chief engineer of the Buffalo, Rochester and Pittsburgh Railway Company, enclosing plans showing how the switches at the Main street crossing, in the village of Gainesville, are to be changed. Ordered copy of the letter sent to the town board.

In the matter of the application of the village of Andover, under section 61 of the Railroad Law (a determination in which was made by this Board on November 23, 1898), notice of appeal by the village was received.

Recess until 2 p. m.

AFTER RECESS—2 P. M.

Crossings.

The inspector submitted a report as to crossing on the Pochuck Railroad. Ordered letter written company as shown by copy on file.

In the matter of the application of the town board of Holland, under section 62 of the Railroad Law, for the abolishment of the grade crossing of the Crosby road and the Western New York and Pennsylvania Railway, a determination in which has been made by the Board, proposals for doing the work were submitted to the Board by the company. Ordered that the proposal of C. E. Napier, of Franklinville, N. Y., for the substructure, and the proposal of the Buffalo Bridge and Iron Works, of Buffalo, N. Y., for the superstructure, be approved.

In the matter of the application of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to Gould, Hedges, Underhill and Norcross crossings, in the town of Colden, a determination in which has been made by the Board, a letter was received from the company as to the price of the land necessary to be acquired. Ordered letter written the company, as shown by copy on file.

In the matter of the application of the village of Shortsville, under section 62 of the Railroad Law, for the abolishment of the grade crossing of the New York Central and Hudson River Railroad at East avenue, in said village, a determination in which has been made by the Board, plans and estimates submitted by the company were approved.

In the matter of the recommendation of the Board as to derailing switches on the Ogdensburg Street Railway, at River street, in the city of Ogdensburg, a letter was received from the company, stating that it is complying with the recommendations of this Board as to precautions to be taken at the crossing pending the installation of derailing switches. Ordered filed. Closed.

Report of the superintendent of the grade crossing bureau as to abolishment of the grade crossing of the New York Central and Hudson River Railroad, at Akron, town of Newstead, in the county of Erie, was received and ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Division avenue, near its Patchogue station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at Hydes crossing, near its Babylon station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Trotting Horse Lane, near Glendale Junction. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Lawrence street, near its Bridge street station, in Flushing. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by St. James road, near its Smithtown station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Newbridge road, near its Hicksville station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at depot crossing, near its Huntington station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at Overton avenue crossing, near its Sayville crossing. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Husted's road, near its Eastport station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at depot road, near its Great River station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at China avenue, near its Sayville station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at Cold Spring Valley road, near its Cold Spring station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at Davis crossing, near its Setauket station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Carman avenue, near its Hicksville station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at Willis Lane, near its Syosset station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Mill Lane, near its Hicksville station. Ordered filed.

The Board adjourned until 10 a. m., February 1st.

ALBANY, FEBRUARY 1, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Proposed amendments to Railroad Law and Penal Code.

The Board considered and adopted its proposed amendments to the Railroad Law and the Penal Code, and ordered that they be transmitted to the chairman of the Senate Railroad Committee for introduction in the Senate. The titles of these bills are as follows:

An act to amend chapter 754 of the laws of 1897, entitled "An act to amend railroad law, and the act amendatory thereof, relative to grade crossings."

An act to amend subdivision 10 of section 4 of the railroad law, relative to mortgages of railroad corporations.

An act to amend section 49 of the railroad law, in regard to "Wooten fire-box" locomotives.

An act to amend section 60 of the railroad law, relative to grade crossings.

An act to amend section 62 of the railroad law, relative to grade crossings.

An act to amend section 59a of the railroad law, relative to extensions of street surface railroads.

An act to amend the railroad law, in regard to crossing signs, gates and flagmen and whistle posts.

An act to amend the Penal Code, in regard to ringing bells and blowing whistles on locomotives approaching grade crossings.

An act to amend section 59 of the railroad law, relative to issue of capital stock by railroad companies.

Resolutions.

The following resolutions were adopted:

Resolved, That the steam railroad inspector be instructed to inspect all of the crossings of steam railroads with other steam railroads at grade, and make reports and recommendations in regard thereto, securing, where possible, blue prints of the crossings, and the rules and regulations governing them.

The following resolution was adopted:

Resolved, That it is the sense of this Board that the inspection of points where steam and street railroads cross at grade, is of the utmost importance, and that the Secretary instruct the electrical expert to complete the inspection of such crossings at as early a day as practicable, making reports to the Board as to the installation of safety devices thereat.

Bills.

The following bills were approved:

Frank M. Baker	\$85 00
A. H. Sutermeister	21 10
George S. Gatchell	22 10
C. R. Barnes	104 55
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	\$232 75
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The Board adjourned.

ALBANY, FEBRUARY 6, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent on official business, investigating accident.

The minutes of the meetings of January 31 and February 1, were read and approved.

Complaints.

Residents of Hector and North Hector against the Lehigh Valley Railroad Company, as to freight rates on fruit. This complaint was renewed by petition received February 4, 1899. A copy of the answer of the Lehigh Valley Railroad Company in the former complaint on the same subject was transmitted again to the complainants, with a letter, as shown by copy on file, asking for details of the complaint, and stating that the Board desires to thoroughly investigate it.

Complaint of the supervisors of Allegany county against the Western New York and Pennsylvania and Erie railroad companies, as to proper water-closets at certain stations. Ordered copies sent the companies.

Applications.

Application of the Delaware and Hudson Canal Company, under section 51 of the Railroad Law, as to approval of cooking stoves in its cars Nos. 500 and 200.

Crossings.

Application of the town board of the town of Brighton, Monroe county, under section 61 of the Railroad Law, as to the manner in which a continuation of the Clover street road shall cross the New York Central and Hudson River Railroad. Ordered filed.

In the matter of the application of the town board of the town of Olean, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Hastings Road and the Western New York and Pennsylvania Railway, a letter was received from the town clerk, stating that the town board approves the plans and estimates for a steel bridge, approved by the company. Ordered plans and estimates approved.

Application of the city of Geneva, under section 61 of the Railroad Law, for a determination as to the manner in which Avenue E shall cross the New York Central and Hudson River Railroad. Ordered filed.

Application of the city of Geneva, under section 61 of the Railroad Law, for a determination, as to the manner in which Avenue B shall cross the New York Central and Hudson River Railroad. Ordered filed.

Orders.

Application of the Delaware and Hudson Canal Company for approval of cooking ranges. Ordered approved.

Application of the Metropolitan Street Railway Company and the Broadway and Seventh Avenue Railroad Company, lessor, under section 100 of the Railroad Law, for approval of the use of either electricity supplied by an underground current, or electric storage batteries or motors operated by compressed air, as motive power on a portion of the railroads of said companies. Ordered underground electricity approved, as shown by copy of order on file.

Application of the New York and Harlem Railroad Company and the Metropolitan Street Railway Company, its lessor, under section 100 of the Railroad Law, for approval of the use of an underground current of electricity as motive power in the operation of a portion of their railroads. Ordered approved.

Bills.

The following bills were approved:

General expenses.

Hudson River Telephone Co.....	\$35 29
Postal Telegraph Cable Co.....	13 48
Great Bear Spring Co.....	5 10
Edgar A. Werner.....	2 50
American Express Co.....	10 50
National Express Co....	15 30
Annesley & Co.....	2 00
Western Union Telegraph Co.....	8 30
Albany District Telegraph Co.....	2 50
Stuart G. Speir.....	2 25
	<hr/>
	\$97 22

The Board adjourned.

ALBANY, FEBRUARY 15, 1899.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn.

The minutes of the meeting of February 6th, were read and approved.

Complaints.

Amanda Johanson against the Central Crosstown Railway Company and the Metropolitan Street Railway Company, of New York city, as to condition of their tracks. Ordered that the electrical expert make an inspection and report.

Board of supervisors of Allegany county against the Western New York and Pennsylvania and the Erie Railroad Companies, as to water closets in certain stations. Letter received from the first named company; answer received from the Erie Railroad Company, stating that it is moving in the matter just as fast as possible; copy sent complainants.

William C. Smyth against the Nassau Electric Railroad Company. Answer of company received, stating that it has taken steps to remove cause of the complaint; copy sent complainant; letter received from complainant, thanking the Board. Closed.

George B. Paterson, of Burdett, N. Y., against the Lehigh Valley Railroad Company, relative to train service. Reply of complainant to answer of company received. Ordered copy sent company.

D. F. Estes against the New York Central and Hudson River Railroad Company, as to alleged overcharge of through ticket from Albany to Hamilton, N. Y. The complainant not having replied to the answer of company, ordered case closed.

New Lots Improvement Association against the Kings County Elevated Railway Company. No reply having been received from complainant to the statement of the company that it had boarded up the Eastern Parkway station, ordered case closed.

Applications.

Application of the East Side Traction Company, under section 59 of the Railroad Law, with affidavit. Ordered refused, as shown by opinion on file.

Reports.

Report of inspector Shultz on grade crossing accident on West Shore Railroad, near Bergen station, Genesee county, February 4, 1899. Ordered copy sent company, with a letter of recommendation, as shown by copy on file.

Report of the inspector as to accident which occurred at the so-called Bailey grade crossing of the Lehigh Valley Railroad, near Red Creek Junction. Ordered copy sent to company, with a letter of recommendation, as shown by copy on file.

Crossings.

A letter was received from R. B. Adam, Chairman Buffalo Grade Crossing Commission, stating that that Commission has not prepared an amendment extending its plan to cover all the crossings in Buffalo, and intimating that it would not do so this year. Ordered that the Secretary be instructed to inform the Chairman of the Senate and Assembly Railroad Committees (as explained by memorandum accompanying the bill) that the Board does not desire to press the passage of the bill recommended by it, providing that the said grade crossing law shall not apply to Buffalo.

Application of the Syracuse, Lakeside and Baldwinsville Railway, under section 68 of the Railroad Law, as to crossing the branch track of the Delaware, Lackawanna and Western Railroad, near Long Branch, Onondaga Lake. Letter received from company, withdrawing the application. Ordered that application may be withdrawn, but papers to remain on file in this office.

A letter was received from the president of the Pochuck Railroad Company, relative to a grade crossing on said railroad, in respect to which the Board has been corresponding with the company and reports have been received from its inspector. Ordered filed.

In the matter of the application of the town board of the town of Schaghticoke, under section 62 of the Railroad Law, a plan and estimate of cost for changing the crossing referred to from the grade of the Fitchburg Railroad was received. Ordered filed.

An opinion was received from the Attorney-General, in response to a letter from this Board, dated February 4th, relative to questions arising under the grade crossing law. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by Grove avenue, about a mile from its Patchogue station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by Huntington road, about 1,425 feet west of its Farmingdale station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by a highway known as "Elizabeth street," about 1,100 feet west of its Farmingdale station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Cherry street," about 800 feet west of its Farmingdale station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by a highway known as "Oakview avenue," about 950 feet east of its Farmingdale station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Sopers road," about 1,755 feet west of Kings Park station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Elm street," about 310 feet east of its Glen Cove (Glen street) station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Bayview avenue," about 1,655 feet west of its Oyster Bay station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by the highways known as "First avenue" and "Roslyn road," about 600 feet and 1,400 feet, respectively, east of its Mineola station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Smith's crossing," about 1,480 feet west of its Locust Valley station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Smith's crossing," about 1,150 feet west of its Locust Valley station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Chapel Lane," about 6,470 feet east of its Patchogue station. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as "Pine Neck avenue," about 6,770 feet east of its Patchogue station. Ordered filed.

Orders.

Application of the East Side Traction Company, under section 59 of the Railroad Law. Refused, as shown by order on file.

The Board adjourned.

ALBANY, MARCH 1, 1899.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn.

The minutes of the meeting of February 15 were read and approved.

Hearings.

In the matter of the application of the Manhattan Railway Company for approval of an increase of its capital stock from \$30,000,000 to \$48,000,000 (application being filed with the Board for the first time to-day). Charles A. Gardiner appeared for the company. Increase approved.

Complaints.

The board of supervisors of Allegany county against the Western New York and Pennsylvania and the Erie Railroad Companies, as to water closets in certain stations. Answer of the Western New York and Pennsylvania Railway Company received. Copy sent complainants.

S. Etta Smith against the New York and Ottawa Railroad Company, as to overworking employees. Copy sent company.

F. H. F. Horsfield against the Fitchburg Railroad Company, as to alleged lack of accommodations for waiting-passengers at Eagle Bridge.

Copy sent company; answer of company received; copy sent complainant. Ordered inspector make inspection and report.

Amanda Johanson against the Central Crosstown Railway Company and the Metropolitan Street Railway Company, as to condition of their tracks. Report of the electrical expert received. Letter written the companies, as shown by copy on file.

George B. Paterson, of Burdett, against the Lehigh Valley Railroad Company, relative to train service. Closed.

G. P. Kelly against the Union Railway Company of New York city, as to waiting room at One Hundred and Thirty-eighth street and the Boulevard. Letter received from the company, stating that it had been unable to make arrangements with the occupant of a store in the vicinity to use as a waiting room. Ordered filed.

W. F. Persons against the Western New York and Pennsylvania Railway Company, as to the transportation of newspapers. Answer of company received; copy sent complainant; letter received from complainant and reply sent. Ordered filed.

Applications.

Application of the Syracuse, Lakeside and Baldwinsville Railway for approval of an increase of its capital stock from \$250,000 to \$500,000 (the application being laid before the Board for the first time to-day). Granted.

Reports.

In the matter of the report of the inspector as to an accident which occurred on the Lehigh Valley Railroad at a point called Bailey crossing, and the recommendation of the Board in regard thereto, a letter was received from the company stating that further reply would be made. Ordered filed.

In the matter of the report of the inspector as to an accident which occurred on the West Shore Railroad at a point known as the Lake Road crossing, near Bergen station, a letter was received from the company stating that the recommendations of the Board as to flagmen and gates would be complied with. Ordered filed.

Crossings.

Application of the Erie Railroad Company for approval of an interlocking switch and signal apparatus at its crossing with the Delaware, Lackawanna and Western Railroad at Binghamton. Referred to the inspector for an investigation and report.

Application of the Syracuse, Lakeside and Baldwinsville Railway, under section 68 of the Railroad Law, as to a determination of the manner in which its railroad shall cross the Delaware, Lackawanna and Western Railroad near Stiles station. Ordered hearing set down for Tuesday, March 14, at 10 a. m., in Albany, and that the grade crossing superintendent make an inspection and report.

Application of the Syracuse, Lakeside and Baldwinsville Railway, under section 68 of the Railroad Law, as to a determination of the manner in which its railroad shall cross the Delaware, Lackawanna and Western Railroad, near the Syracuse street bridge, over the Seneca river, in the village of Baldwinsville. Ordered hearing set down for Tuesday, March 14, at 10 a. m., in Albany, and that the grade crossing superintendent make an inspection and report.

In the matter of the application of the Erie Railroad Company for approval of an interlocking signal apparatus, in the city of Olean, at a point where its railroad crosses the Western New York and Pennsylvania Railway, a report was received from the inspector, disapproving of the apparatus. Ordered letter written the company in reference thereto, as shown by copy on file, disapproving the apparatus.

In the matter of the change of its tracks by the Buffalo, Rochester and Pittsburgh Railway Company, at the village of Gainesville, across the main street, a report was received from the inspector of his inspection of the point in question. Ordered proposed change approved, with modifications, as recommended by the inspector.

In the matter of the application of the town board of the town of Gullford as to the abolishment of the Roots and the Milk station grade crossings of the New York, Ontario and Western Railway, a petition was received from Silas Root and others in regard to the matter. Ordered copy sent the company. This is a matter in which the Board has made a determination.

A resolution was received from the town board of the town of Olean, asking that the bridge to be erected at the Hastings crossroad crossing of the Western New York and Pennsylvania Railway be erected in the highway as it at present exists. The town board has heretofore approved of the erection of the bridge other than in the highway. Letter received from the company in regard to the matter. Ordered letter written the company and the town board, as shown by copy on file.

In the matter of the application of the Little Falls and Herkimer Street Railway Company, under section 68 of the Railroad Law, as to crossing the Mohawk and Malone Railway in the village of Herkimer, a report was received from the inspector. Ordered filed.

In the matter of the application of the village of Pulaski, under section 62 of the Railroad Law, as to abolishing a grade crossing of the Rome, Watertown and Ogdensburg Railroad, a communication was received from the village, withdrawing its application. Ordered that the application may be withdrawn, but that the papers remain on file in this office.

Orders.

Application of Manhattan Railway for approval of increase of capital stock from \$30,000,000 to \$48,000,000. Granted.

Application of the Syracuse, Lakeside and Baldwinsville Railway for approval of increase of capital stock from \$250,000 to \$500,000. Granted.
The Board adjourned.

ALBANY, MARCH 8, 1899.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn.

The minutes of the meeting of March 1st were read and approved.

Complaints.

G. P. Kelly against the Union Railway Company of New York city, as to waiting room at One Hundred and Thirty-eighth street and the Boulevard. Ordered letter written complainant, as shown by copy on file.

R. W. Sherman, of Glens Falls, against the Delaware and Hudson Canal Company, as to alleged overcharge in freight rates. Copy of complaint sent to the company. Answer of company received. Copy sent complainant.

S. Etta Smith against the New York and Ottawa Railroad Company, as to overworking employees. Answer of company received. Ordered copy sent complainant and case closed.

Crossings.

In the matter of the report of the inspector on an accident which occurred on the Lehigh Valley Railroad, at a point called Bailey crossing, a letter was received from the company, stating that as much of the

storm fence as interfered with the view of approaching trains would be removed. Closed.

S. W. Hoyt against the Erie Railroad Company, as to alleged dangerous condition of the highway near Otisville. A letter was received from the company as to widening the highway. Copy sent complainant. Closed.

In the matter of the change of its tracks by the Buffalo, Rochester and Pittsburgh Railway Company, in the village of Gainesville, across the main street, a letter was received from the company, stating that the modifications recommended by the Board had been made. Closed.

In the matter of the crossing of the Stillwater and Mechanicville Street Railway and the Delaware and Hudson Canal Company's railroad, in the village of Waterford, a report was received from the inspector, approving of the interlocking switch and signal system installed at the point in question. Commissioner Baker also reported that he had inspected the system and approved it. A letter was received from the Delaware and Hudson Canal Company in relation to the matter. Ordered system approved, and that both companies be notified.

In the matter of the application of the Erie Railroad Company for approval of an interlocking apparatus (which apparatus the Board disapproved), in the city of Olean, at a point where its railroad crosses the Western New York and Pennsylvania Railway, a letter was received from the company, stating that the matter is being looked into and will have prompt attention.

Copies of the contract for the stone work, metal work and wood work for the Crosby road overhead bridge across the Western New York and Pennsylvania Railway, in the town of Holland, Erie county, were submitted to the Board by the company. Ordered letter written to the company, as shown by copy on file.

The Board adjourned.

ALBANY, MARCH 14, 1899.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn.

Hearings.

Application of the Syracuse, Lakeside and Baldwinsville Railway, under the provisions of section 68 of the Railroad Law, for a determination of the manner in which its railroad shall cross the Delaware, Lackawanna and Western Railroad, near the Syracuse street bridge over the Seneca river, in the village of Baldwinsville. William Nottingham appeared for the applicant; William F. Jenney for the Delaware, Lackawanna and Western Railroad Company, in opposition. After hearing evidence and arguments, the hearing was closed. The Board decided to inspect the locality of the proposed crossing.

Application of the Syracuse, Lakeside and Baldwinsville Railway, under the provisions of section 68 of the Railroad Law, for a determination of the manner in which its railroad shall cross the Delaware, Lackawanna and Western Railroad, near Stiles station. William Nottingham appeared for the applicant; William F. Jenney for the Delaware, Lackawanna and Western Railroad Company, in opposition. After hearing evidence and arguments, the hearing was closed. The Board decided to inspect the locality of the proposed crossing.

In the matter of the recommendation of this Board, dated October 5, 1898, to the Troy City Railway Company, as to safety appliances at points where its railroad crosses steam railroads, C. H. Smith, superintendent of the company, appeared before the Board and filed plans of the derailing switches, etc. to be installed. Ordered such plans approved, except so far as the crossing on Second street, near the corner of Jefferson street in the city of Troy, is concerned, which crossing the Board decided to inspect in the near future.

The Board adjourned.

ALBANY, MARCH 21, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of March 8 and 14 were read and approved.

Hearings.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for approval for an increase of its capital stock from \$300,000 to \$1,250,000. This application was laid before the Board for the first time to-day. J. S. Frost and L. C. Warner appeared for the application. After hearing evidence and arguments, the matter was held open pending the filing with the Board of additional information.

Complaints.

F. H. T. Horsfield against the Fitchburg Railroad Company, relative to lack of accommodation for waiting passengers at Eagle Bridge. Report of the inspector received, recommending that a cover be erected over a portion of the platform. Ordered that the recommendation of the inspector be made the recommendation of the Board and a copy of his report, with a letter, be sent to the company.

R. W. Sherman, of Glens Falls, against the Delaware and Hudson Canal Company, as to alleged overcharge in freight rates. Reply of complainant to answer of company received. Ordered letter sent complainant, as shown by copy on file.

F. K. Baxter against the West Shore Railroad Company, relative to new station at Utica. A letter was received from the company in regard to the matter. Ordered filed.

A. B. Ottaway against the Lake Shore and Michigan Southern Railway Company, relative to hours of labor of its employees. Copy sent the company.

Applications.

Application of the Raquette Lake Railway Company under section 59 of the Railroad Law. Hearing set down for Wednesday, March 29, 10 a. m., in Albany.

Reports.

Report of the inspector of his investigation of an accident on the Lehigh Valley Railroad, near Cayuta, where an engineer was killed. Ordered that a copy of the report be sent to the company, with a letter making the recommendations of the inspector the recommendations of the Board.

Report of the inspector of his investigation of an accident on the New York Central and Hudson River Railroad, near Savannah, in which a fireman was killed. Ordered that a copy of the report be sent to the company, with a letter making the recommendations of the inspector the recommendations of the Board.

Report of the inspector as to his investigation of a grade crossing accident on the Fonda, Johnstown and Gloversville Railroad, near Gloversville. Referred to the superintendent of the grade crossing bureau to make a further report as to change in the crossing.

Report of the inspector as to his investigation of an accident on the New York Central and Hudson River Railroad, near Glenwood, where an engineer was killed. Ordered that a copy of the report be sent to the company, with a letter making the recommendations of the inspector the recommendations of the Board.

Crossings.

Report of the electrical expert of his investigation of points where the New York and Queens County Railway crosses steam railroads. Ordered that a copy be sent to the New York and Queens County Railway Company, with a letter making the recommendations of the electrical expert the directions of the Board, in accordance with section 36 of the Railroad Law, the entire expense to be borne by the street railroad company.

Report of the electrical expert of his investigation of points where the Brooklyn City Railroad crosses steam railroads. Ordered that a copy be sent to the Brooklyn City Railroad Company, with a letter making the recommendations of the electrical expert the directions of the Board, in accordance with section 36 of the Railroad Law, the entire expense to be borne by the street railroad company.

Report of the electrical expert of his investigation of points where the Brooklyn Heights Railroad crosses steam railroads. Ordered that a copy be sent to the Brooklyn Heights Railroad Company, with a letter making the recommendations of the electrical expert the directions of the Board, in accordance with section 36 of the Railroad Law, the entire expense to be borne by the street railroad company.

Report of the electrical expert of his investigation of points where the Brooklyn, Queens County and Suburban Railroad crosses steam railroads. Ordered that a copy be sent to the Brooklyn, Queens County and Suburban Railroad Company, with a letter making the recommendations of the electrical expert the directions of the Board in accordance with section 36 of the Railroad Law, the entire expense to be borne by the street railroad company.

Report of the electrical expert of his investigation of points where the Nassau Electric Railroad crosses steam railroads. Ordered that a copy be sent the Nassau Electric Railroad Company, with a letter making the recommendations of the electrical expert the directions of the Board, in accordance with section 36 of the Railroad Law, the entire expense to be borne by the street railroad company.

In the matter of the application of the Erie Railroad Company for approval of an interlocking switch and signal apparatus at a point where it crosses the Delaware, Lackawanna and Western Railroad, in Binghamton, a report of the inspector of his inspection of the plan and the point where it proposes to establish its plant was received. Ordered filed.

Application of the city of Buffalo, under section 61 of the Railroad Law, for a determination of the manner in which Goodyear avenue shall cross the West Shore Railroad. Ordered filed.

The Board decided to make a test of street car brakes, as shown by the plan on file.

Orders.

Application of the Erie Railroad Company for approval of an interlocking switch and signal device to be installed at a point where its railroad crosses the Delaware, Lackawanna and Western Railroad, at grade, in Binghamton. Ordered device approved.

Bills.

The following bills were approved:

General expenses.

Harry W. Riggs.....	\$4 00
Harry W. Riggs.....	3 00
Hotel Red Book and Directory Co.....	3 00
Railroad Gazette	2 88
Smith Premier Typewriter Co.....	1 50
Engineering News	5 00

James B. Lyon	\$6 00
Wooster Furniture Co.....	6 75
Wm. H. Sample.....	50
Albany Law Journal Co.....	5 00
T. H. Christie (expenses).....	100 00
T. H. Christie (salary).....	100 00
National Express Co.....	13 05
American Express Co.....	6 05
Hudson River Telephone Co.....	20 44
Albany District Telegraph Co.....	3 35
Great Bear Spring Co.....	5 40
Western Union Telegraph Co.....	3 25
Postal Telegraph Cable Co.....	8 00
Charles H. Barnes (expenses).....	132 45
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	\$429 62
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Grade crossing expenses.

A. H. Sutermeister (expenses).....	\$29 75
W. & L. E. Gurgley.....	7 33
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	\$37 08
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	\$466 70
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The Board adjourned.

ALBANY, MARCH 29, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of March 21 were read and approved.

Hearings.

Application of the Raquette Lake Railway Company under section 59 of the Railroad Law. C. E. Snyder appeared for the Company; William F. Rathbone for the Delaware and Hudson Canal Company; E. H. Leggett for himself as property owner and for other property owners in opposition; Hadley Jones for the Fulton Chain Railroad Company, for the Crosby Transportation Company and for the Old Forge Company, in opposition. After hearing evidence and arguments the hearing was adjourned until Tuesday, April 11, 1899, at 10 o'clock a. m., in Albany.

Complaints.

A. B. Ottaway against the Lake Shore and Michigan Southern Railway Company, relative to hours of labor of its employees. Answer of company received; copy sent complainant. Case closed.

Northrup Glove Manufacturing Company, of Johnstown, against the Fonda, Johnstown and Gloversville Railroad Company, as to minimum charge on freight. Copy sent company; answer of company received; copy sent complainant. Case closed.

F. H. T. Horsfield against the Fitchburg Railroad Company, relative to lack of accommodations for waiting passengers at Eagle Bridge. Letter received from the company, stating that the recommendations of the Board will be complied with; copy sent complainant. Case closed.

Delaware and Hudson Canal Company against the Troy City Railway Company, as to escape of electricity on the railroad bridge between Troy

and Green Island. Referred to the electrical expert to make an inspection and report.

Elizabeth S. Pease against the Troy City Railway Company, as to condition of bridge which its cars cross on Ontario street, in Cohoes. Referred to the superintendent of the grade crossing bureau to make an inspection and report.

Applications.

Application of the Mineola, Hempstead and Freeport Traction Company for a certificate under section 59 of the Railroad Law. Ordered filed.

In the matter of the application of the Syracuse, Skaneateles and Moravia Railroad Company for a certificate under section 59 of the Railroad Law, a hearing was sent down for Wednesday, April 5, 1899, at 10 o'clock a. m., in Albany, the hearing at that time to be only upon the validity of the amended certificate of incorporation, which the company has filed in the Secretary of State's office.

Reports.

In the matter of the report of the inspection as to an accident on the Lehigh Valley Railroad, near Cayuta, February 10, 1899, a letter was received from the company stating that the matter of the recommendations of this Board would be taken up at once and that the company would advise the Board as to the steps it takes. Ordered filed.

Report of the superintendent of the grade crossing bureau as to his investigation of an accident which occurred on the Lake Shore and Michigan Southern Railway, at West Seneca, March 20, 1899, to train No. 18. Ordered filed.

Report of the inspector of his investigation of an accident which occurred on the Lake Shore and Michigan Southern Railway, near Westfield, March 5, 1899, to train No. 10. Ordered that a copy of the report be sent to the company with a letter, making the recommendations of the inspector the recommendations of the Board.

Report of the electrical expert of his investigation of an accident which occurred on the Black River Traction Company's railroad, in Watertown, March 19, 1899. Ordered that a copy of the report be sent to the company with a letter, making the recommendations of the electrical expert the recommendations of the Board.

Report of the electrical expert of his investigation of an accident which occurred on the Manhattan Railway, February 11, 1899, at 9.40 a. m., at the Sixty-sixth street station of the Sixth Avenue line. Ordered that a copy of the report be sent to the company with a letter, as shown by copy on file, in relation to examination of the condition of the brakes of trains.

In the matter of the report of the inspector as to an accident which occurred on the New York Central and Hudson River Railroad, near Savannah, February 20, 1899, a letter was received from the company, stating that it had arranged for complying with the recommendations of the Board as to spreading the tracks at the point in question. Ordered filed.

Crossings.

Petition of the president and trustees of the village of Celeron, Chautauqua county, under section 61 of the Railroad Law, as to carrying a new street across the Erie Railroad and the Nypano Railroad. Ordered filed.

A certified copy of a resolution of the board of trustees of the village of Shortsville, approving of the lowest bid submitted for the construction of the subway under the Auburn Branch of the New York Central and Hudson River Railroad, on East avenue, in the village of Shortsville, was received. Ordered that the bid of Chambers and Casey, for the substructure, namely, \$3,141.73, and of the Buffalo Bridge and Iron Works for the superstructure, namely, \$1,062; total, \$4,203.73, be approved and that such

approval be endorsed upon a copy of a blue print, showing the bids in detail, and that the blue print so endorsed be returned to the company.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as the Depot crossing, in the town of Southold, Suffolk county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Bridge Neck Road, in the town of Southold, Suffolk county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as East Jamesport lane, in the town of Riverhead, Suffolk county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Raynor avenue, in the town of Riverhead, Suffolk county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Depot road, in the town of Riverhead, Suffolk county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Union street, in the town of Riverhead, Suffolk county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad at Tuthill's crossing, in the town of Riverhead, Suffolk county. Ordered filed.

Orders.

Application of the Syracuse, Lakeside and Baldwinsville Railway Company, under section 68 of the Railroad Law, as to the manner in which its railroad shall cross the Delaware, Lackawanna and Western Railroad, near Stiles station. Determination, as shown by copy on file, that it shall cross overhead.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for approval of an increase of its capital stock from \$300,000 to \$1,250,000. Granted.

Bills.

The following bills were approved:

General expenses.

Commissioner Frank M. Baker (expenses).....	\$47 50
Brandow Printing Company.....	23 34
Brandow Printing Company.....	71 33
James B. Lyon.....	2 00
J. Warren Mead.....	15 00
J. D. Shultz (expenses).....	35 05

\$194 22

The Board adjourned.

ALBANY, APRIL 5, 1890.

The Board met pursuant to adjournment. Present Commissioners Cole and Dunn.

The minutes of the meeting of March 29 were read and approved.

Hearings.

In the matter of the application of the Syracuse, Skaneateles and Moravia Railroad Company, a hearing was given upon the validity of the amended articles of association of that company. Wing T. Parker appeared for the company; Ira A. Place, by brief, for the New York Central and Hudson River Railroad Company in opposition; Robert E. Drake for the Syracuse Rapid Transit Company, and George Barrow for the Skaneateles Railroad Company, appeared in person in opposition. The hearing was closed.

Complaints.

Elizabeth S. Pease against the Troy City Railway Company, as to condition of a bridge which its cars cross on Ontario street, Cohoes. Report of an engineer of the Board of his inspection and examination of the bridge received. Ordered that copy be sent to the railway company, with a letter making the recommendations of the Board's engineer those of the Board so far as the company can comply therewith. Also ordered that a copy be sent to the mayor of the city of Cohoes, with a letter calling his attention to the condition of the bridge as found by the engineer, the bridge being a city bridge.

G. P. Kelley against the Union Railway Company of New York city, as to waiting room at transfer point, One Hundred and Thirty-eighth street and the Boulevard. Closed.

R. W. Sherman against the Delaware and Hudson Canal Company as to rates on freight. Closed.

W. F. Persons against the Western New York and Pennsylvania Railway Company, as to carrying newspapers. Closed.

Applications.

Application of The Massena Electric Street Railway Company, under section 59 of the Railroad Law. Ordered carried on file.

Application of the Stony Clove and Catskill Mountain and the Kaaterskill Railroad Companies for approval of a change of gauge from narrow gauge to standard gauge. Ordered carried on file.

Reports.

In the matter of the report of the inspector, as to an accident on the Lake Shore and Michigan Southern Railway, near Westfield, on March 5, 1899, a letter was received from the company, stating that the recommendations of the Board will be complied with.

Report of the inspector of an accident on the Third Avenue line of the Manhattan Railway Company, New York city, near the Fourteenth street station, on March 21, 1899. Ordered filed.

Crossings.

Application of the village of St. Johnsville in the matter of the determination of the Board on the petition of said village that Bridge street be carried over the railroad of the New York Central and Hudson River Railroad Company, asking that it be given an opportunity to present reasons why all proceedings heretofore taken therein should be withdrawn. Ordered that a letter be written to the village, stating that in the opinion of the Board, a determination having been made, the Board has no power to annul said determination.

In the matter of the abolishment of the grade crossing of the Western New York and Pennsylvania Railway and the Hastings cross-road, in the town of Olean, in which the Board has recommended that the bridge to be erected shall be in the highway as it at present exists, a letter was received from the Western New York and Pennsylvania Railway Com-

pany, enclosing a revised plan of the proposed bridge adapted to the line of the highway, as requested by the town board, and also an estimate of the cost of the same. Ordered said change of plan and estimate approved, and letters be written the railway company and the town board in reference thereto.

A letter was received from Messrs. Moot, Sprague, Brownell and Marcy, attorneys of the Erie Railroad Company, asking for the approval of the Board of a change in an interlocking switch stand lever, at Buffalo, where the Crosstown Street Railway crosses the Erie Railroad, near the American Radiator Works. Ordered change of lever approved, as shown by copy of letter on file.

A letter was received from the supervisor of the town of Madison, Madison county, relative to a change in the location of a new highway involved in the determination heretofore made for the doing away with the so-called Hogs' Back grade crossings of the New York, Ontario and Western Railway. Ordered that the superintendent of the grade crossing bureau make an inspection and report.

Petition of the Long Island Railroad Company under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by a highway about 2,270 feet east of the Edgemere station of said railroad. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Smith's road, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Earle avenue, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Christian Hook road, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Jones avenue, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Jackson avenue, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad known as Depot crossing, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Washington street, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Lafayette Place, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Irving Place, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Swamp road, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Prospect avenue, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Lynwood avenue, in the town of Hempstead, Nassau county. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Atlantic avenue, in the Borough of Queens, east of Arverne station, of its railroad. Ordered filed.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by the highway known as Cedar avenue, in the Borough of Queens, east of Arverne station, of its railroad. Ordered filed.

Orders.

In the matter of the consideration of the amended articles of association of the Syracuse, Skaneateles and Moravia Railroad, a hearing upon which was held to-day, the Board determined that said articles are valid, and that they be advertised as required by section 59 of the Railroad Law, when a hearing on the merits of the application will be fixed by the Board.

Bills.

The following bills were approved:

General fund.

C. R. Barnes	\$115 85
John Crayton	13 34
	<hr/>
	\$129 19

Grade crossing appropriation.

A. H. Sutermeister	15 55
	<hr/>
	\$144 74

The Board adjourned.

ALBANY, APRIL 11, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of April 5 were read and approved.

Hearings.

Adjourned hearing in the matter of the application of the Raquette Lake Railway Company, under section 59 of the Railroad Law. C. E. Snyder appeared for the applicant. A letter was received from Hadley Jones withdrawing his opposition. No one else appeared at this hearing. After hearing evidence and arguments the application was granted.

Complaints.

Amanda Johanson against the Central Crosstown Railroad Company and the Metropolitan Street Railway Company, as to center-bearing rails.

Answer of the Metropolitan Street Railway Company received. Ordered copy sent complainant.

Ogden and Clark, of Utica, against the New York Central and Hudson River Railroad Company (Mohawk and Malone Division) as to freight rates on feed and grain. Copy sent company.

E. M. Pettis against the Lehigh Valley Railroad Company, relative to condition of fences. Letter written the company, as shown by copy on file.

William Thorpe against the Staten Island Rapid Transit Railroad Company, relative to street railroads crossing it. Letter written complainant, as shown by copy on file, and matter referred to the electrical expert to make investigation and report.

Delaware and Hudson Canal Company against the Troy City Railway Company, as to escape of electricity on the Troy and Green Island bridge used by both companies. Report of electrical expert received. Ordered filed.

Robert E. Anthony, Jr., against the Brooklyn and Brighton Beach Railroad Company, as to flagmen at crossings. Ordered letter written complainant, as shown by copy on file, and complaint referred to the electrical expert to make investigation and report.

Residents of Hector and North Hector against the Lehigh Valley Railroad Company, as to freight rates. Closed.

Applications.

Application of citizens for change of station on the New York Central and Hudson River Railroad (Hudson River division), from Camelot to Barnegat. Letter written company, as shown by copy on file.

Crossings.

In the matter of the report of the electrical expert of his inspection of points where the New York and Queens County Railway crosses steam railroads, a letter was received from the company as to the matter. Referred to the electrical expert, who is to make a further report.

In the matter of the report of the electrical expert of his investigation of an accident on the railroad of the Black River Traction Company, in Watertown, a letter was received from the company, asking a modification of the recommendation of the Board, as to cutting the trolley wire at the point in question. Ordered letter written the company, as shown by copy on file.

A letter was received containing a plan of the bridge by which the Syracuse, Lakeside and Baldwinsville Railway will cross the Delaware, Lackawanna and Western Railroad, near Stiles station. Ordered approved.

Hearings fixed.

In the matter of the application of the president and trustees of the village of Celeron and application of the town board of the town of Poland, Chautauqua county, under section 61 of the Railroad Law. Ordered hearing set down for Jamestown, Tuesday, April 25, at 10 o'clock a. m.

Application of the Stony Clove and Catskill Mountain and the Kaaterskill Railroad Companies. Ordered hearing set down for Wednesday, April 19, at 10 o'clock a. m., in Albany.

Application of the Massena Electric Street Railway Company, under section 59 of the Railroad Law. Ordered hearing set down for Wednesday, April 19, at 10 o'clock a. m., in Albany.

Orders.

Application of the Raquette Lake Railway Company, under section 59 of the Railroad Law. Granted.

Bills.

The following bills were approved:

General expenses.

J. Warren Mead	\$7 50
National Press Intelligence Company.....	3 35
Great Bear Spring Company.....	6 60
American Express Company	133 75
National Express Company.....	53 40
Western Union Telegraph Company.....	4 87
Hudson River Telephone Company.....	40 09
Hudson River Telephone Company.....	8 33
Postal Telegraph Cable Company.....	5 19
W. McNeilly (postage stamps)	100 00
National Railway Publishing Company.....	5 00
Albany District Telegraph Company.....	1 18
	<hr/>
	\$369 26

The Board adjourned.

ALBANY, APRIL 12, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

A representative of the Riverhead, Quogue and Southampton Railroad Company appeared before the Board and asked leave to renew its application for a certificate under section 59 of the Railroad Law which had previously been refused by this Board. He was instructed to put his request in writing.

Reports.

In the matter of the report of the electrical expert of the accident which occurred on the Manhattan Railway, February 11, 1899, a letter was received from the company, stating that the recommendations of the Board as to examination of brakes at the end of each trip (northern and southern ends of the road) have been complied with.

The Board adjourned.

ALBANY, APRIL 19, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of April 11 and 12 were read and approved.

Hearings.

Application of the Stony Clove and Catskill Mountain and the Kaater-skill Railroad Companies for approval of a change of gauge from narrow to standard. H. C. Soop appeared for the applicant; no one in opposition. Granted.

Application of The Massena Electric Street Railway Company for a certificate under section 59 of the Railroad Law. Howard Hasbrouck appeared for the applicant; no one in opposition. After hearing arguments and reading and filing affidavits, the hearing was closed, except as to further proof of publication of notice of hearing to be filed, and proof as to strengthening existing bridges on the line of the proposed road, in case the application is granted.

Complaints.

E. M. Pettis against the Lehigh Valley Railroad Company, relative to condition of fences. Answer of company received. Copy sent complainant.

Ogden and Clark, of Utica, against the New York Central and Hudson River Railroad Company (Mohawk and Malone division) as to freight rates on feed and grain. Answer of company received. Copy sent complainants.

Harrison Gilmore and son against the New York, Ontario and Western Railway Company, as to freight rates on coal. Copy sent the company.

Applications.

In the matter of the application of citizens for change of station at Camelot to Barnegat, on the New York Central and Hudson River Railroad (Hudson River division) a letter was received from the company. Ordered filed.

Reports.

In the matter of the report of the inspector as to an accident on the Lake Shore and Michigan Southern Railway, near Westfield, on March 5, 1899, a letter was received from the company, stating that the recommendations of the Board have been complied with.

In the matter of the complaint of Elizabeth S. Pease against the Troy City Railway Company, as to the condition of a bridge which its cars cross on Ontario street, Cohoes, a letter was received from the mayor of the city, stating that the bridge had been closed and would remain so until it is placed in safe condition. The superintendent of the railway company also reported verbally to this effect.

In the matter of an accident on the Sixth Avenue line of the Manhattan Railway Company, on January 31, 1899, a report was received from the inspector. Ordered filed.

Crossings.

In the matter of the report of the inspector as to his investigation of the grade crossing on the Fonda, Johnstown and Gloversville Railroad, near Gloversville, which was referred to the superintendent of the grade crossing bureau, a report was received from him as to changes under the grade crossing law at this point. Referred to grade crossing inspector Brazee.

In the matter of the application of the town of Schodack, under section 62 of the Railroad Law, a determination in which has been made by the Board, a letter was received from the railroad company in answer to a letter from this Board, stating that a driveway described would be provided and asking for the Board's decision as to the width of said driveway. The Board decided the width should be eighteen feet. In this same matter plans and bids for the bridge (the stone-work bid having been heretofore approved) were submitted to the Board. Ordered that the bid of the Pittsburgh Bridge Company, viz.: 4 $\frac{3}{4}$ cents per pound, be approved.

In the matter of the application of the town of Madison, Madison county, relative to the abolishment of the so-called Hogs' Back grade crossings of the New York, Ontario and Western Railway, a determination in which has been made by the Board, a report was received from the superintendent of the grade crossing bureau, dated April 18. Ordered that he make a survey and map, showing exactly the new proposition of the town board.

In the matter of the application of the town board of Guilford, under section 62 of the Railroad Law, as to doing away with Root's and Milk station crossings of the New York, Ontario and Western Railway, a determination in which has been made by the Board, a report of the superintendent of the grade crossing bureau was received, dated April 17.

Ordered letters written the town board and railroad company, stating that the Board adheres to its formal determination in this matter, dated November 23, 1898. A letter in regard to this matter was also received from C. A. Winsor, which was ordered filed.

Petition of the town board of the town of Carrollton, Cattaraugus county, under section 62 of the Railroad Law, as to abolishing the grade crossing of the highway known as the State road and the Buffalo, Rochester and Pittsburgh Railway, near Carrollton depot. Ordered that the superintendent of the grade crossing bureau make a survey and report.

In the matter of the petition of the town board of the town of LeRoy, Genesee county (in which the Buffalo, Rochester and Pittsburgh Railway Company joined), under section 62 of the Railroad Law, for the abolishment of the grade crossing known as Haskins crossings in which the Board has made a determination, John S. Rockwell appeared for the Buffalo, Rochester and Pittsburgh Railway Company with the proposals of contractors for doing the work. Ordered that the bid of B. P. Smith, for the masonry, namely, \$6 per cubic yard, be approved, the Board recommending that LeRoy stone be used in abutments; also that the bid of B. P. Smith, for embankment, namely, 20 cents per cubic yard, be approved; also that the bid of the Canton W. I. Bridge Company, for the bridge superstructure, namely, \$1,900, be approved, provided the plan is changed to meet the ideas of the chief engineer of the railway company.

In the matter of the petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, for the abolishment of two grade crossings of its railroad near its station at Hardys or Pike and the opening of a new crossing above the grade of the railroad, John S. Rockwell, attorney for the company, appeared before the Board and substituted bids for doing the work. Ordered that the bid of B. P. Smith, for embankment, namely, 22 cents per cubic yard, be approved; and that the bid of B. P. Smith, for masonry, namely, \$6.50 per cubic yard, be approved; also that the bid of the Canton W. I. Bridge Company, for the bridge superstructure, namely, \$2,060, be approved, provided the plan is changed to meet the ideas of the chief engineer of the railway company.

In the matter of the petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, for the abolishment of four highway grade crossings of its railroad in the town of Colden, Erie county, John S. Rockwell appeared before the Board with bids for doing the work. Ordered that the bid of George W. Moore, for embankment, namely, 30 cents per cubic yard, and the bid of George W. Moore, for riprap, namely, 70 cents per cubic yard, be approved.

Orders.

Applications of the Stony Clove and Catskill Mountain and Kaaterskill Railroad Companies for approval of a change of gauge from narrow to standard. Ordered granted.

The Board adjourned.

JAMESTOWN, APRIL 25, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the president and trustees of the village of Celeron, Chautauqua county, under section 61 of the Railroad Law, as to Dunham avenue, E. E. Woodbury appeared for the applicant; George F. Brownell and Jerome B. Fisher for the Erie Railroad Company. After hearing evidence and arguments, the hearing was held open, pending the considera-

tion by the village of the matter of abolishing an existing grade crossing and the making of an over-head crossing at Dunham avenue. Either side may, on one week's notice to the other, bring the present application up again. The Board inspected the proposed point of crossing at Dunham avenue.

Application of the town board of the town of Poland, Chautauqua county, under section 61 of the Railroad Law, as to a new highway crossing the Erie Railroad and the Nypano Railroad. After hearing arguments the hearing was closed. The Board inspected the proposed point of crossing.

Application of the Buffalo, Hamburg and Aurora Railway Company (presented to the Board for the first time to-day) for approval of an increase of its capital stock from \$200,000 to \$400,000. John S. Rockwell appeared for the applicant. Granted.

The Board inspected the route of the Jamestown Terminal Railroad Company, an application under section 59 by that company being laid before the Board for the first time to-day.

Orders.

Application of the Buffalo, Hamburg and Aurora Railway Company for approval of an increase of its capital stock from \$200,000 to \$400,000. Granted.

The Board adjourned.

ALBANY, APRIL 26, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of April 19 were read and approved.

Complaints.

Ogden & Clark, of Utica, against the New York Central and Hudson River Railroad Company (Mohawk and Malone Division) as to freight rates on feed and grain. Reply of complainants to answer of company received; letter written complainants, stating that the Board will give them a hearing, if desired.

H. W. Pettibone against the Lehigh Valley Railroad Company as to fences. Letter written the company, as shown by copy on file; answer of company received; copy sent complainant with letter, as shown by copy on file, and case closed.

Applications.

Application of the Stony Point Harbor and Terminal Junction Railroad Company for a certificate under section 59 of the Railroad Law. Hearing set for Wednesday, May 3, at 11.30 a. m., in Albany.

In the matter of the application of the Jamestown Terminal Railway Company for a certificate under section 59 of the Railroad Law, a hearing was set for Wednesday, May 3, at 10 a. m., in Albany.

Application of the Utica Belt Line Street Railroad Company for approval of abandonment of about 800 feet of its track on Grove Place, in the city of Utica. Ordered approved.

Reports.

Report of the inspector in the matter of an accident to train No. 35, on the Hudson River Division of the New York Central and Hudson River Railroad, near Dobb's Ferry, April 19, where the engineer of the train was killed. Ordered filed.

Report of the inspector on the accident to locomotive No. 1327, on the Erie Railroad, near Cameron, February 2. Ordered filed.

In the matter of the report of the inspector, relative to an accident at bridge No. 292, on the Lehigh Valley Railroad, near Cayuta, a letter was received from the company, stating that the recommendations of the Board will be complied with. Ordered filed.

In the matter of the report of the inspector as to an accident at Bailey crossing, on the Lehigh Valley Railroad, near Red Creek Junction, a letter was received from the company, stating that the recommendations of the Board have been complied with as to removing a portion of the snow fence. Ordered filed.

Crossings.

Application of the town of Locke, under section 62 of the Railroad Law, as to a crossing of the Lehigh Valley Railroad, known as Cruthers crossing. Ordered filed.

In the matter of the application of the Erie Railroad Company, as to its crossing of the Western New York and Pennsylvania Railway, near Olean, in which the Board refused to approve the switch and signal system now in use, a letter was received from the company, again asking for its approval. Ordered letter written the company, stating that the Board has not changed its opinion upon the subject and will not approve the signal system now in use. Also ordered letter written to the Western New York and Pennsylvania Railway Company in regard to the matter, as shown by copy on file.

Orders.

Application of the Utica Belt Line Street Railroad Company as to abandonment of about 900 feet of its track on Grove Place, Utica. Ordered abandonment approved.

Bills.

The following bills were approved:

General expenses.

Railroad Gazette	\$4 20
J. D. Shultz (expenses).....	87 65
Railroad Press	1 00
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	\$92 85

Grade crossing expenses.

James E. Brazee (salary).....	70 00
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	\$162 85

The Board adjourned.

ALBANY, APRIL 27, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn.

Crossings.

In the matter of the application of the town board of the town of Schodack, relative to Brookview avenue and other crossings of the Boston and Albany Railroad, the Board approved the bid of John Donahue for the new pier, namely, \$14.50 per cubic yard, for granite, and the bid of Welch Brothers, namely, \$2,135.22 covering estimated cost of construction of approaches to the Brookview avenue bridge, and construction of Boom Barrack road, including in both cases the cost of fencing and railing.

The Board adjourned.

ALBANY, MAY 3, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of April 25, 26 and 27 were read and approved.

Hearings.

The hearing in the applications of the Stony Point Harbor and Terminal Junction Railroad Company and the Jamestown Terminal Railway Company, under section 59 of the Railroad Law, which were set for this date, were postponed by agreement.

Application of the Rome City Street Railway Company for approval of an increase of its capital stock from \$50,000 to \$150,000, laid before the Board for the first time to-day. John E. Mason appeared for the applicant. Granted.

Complaints.

William Thorpe against the Staten Island Rapid Transit Railroad Company, relative to street railroads crossing it. Report of the electrical expert received; copies of his report sent to the Staten Island Electric Railroad Company and the Staten Island Midland, with letters, making his recommendations the requirements of the Board, and letter written complainant. Closed.

Robert E. Anthony, Jr., against the Brooklyn and Brighton Beach Railroad Company, as to flagmen at crossings. Report of the electrical expert received; copy sent company, with a letter, making the recommendation of the electrical expert the recommendation of this Board; letter also written complainant. Letter received from the company, stating that the recommendation would be complied with. Closed.

Applications.

In the matter of the application of The Massena Electric Street Railway Company for a certificate under section 59 of the Railroad Law, a letter was received from the applicant enclosing copy of a letter sent to commissioner of highways relative to strengthening existing bridges on the line of the proposed railroad. Ordered letter written the applicant that a written agreement on the subject must be filed with the Board.

Application of the Long Island Railroad Company, under section 34 of the Railroad Law, for permission to discontinue a station at South Greenfield, it being proposed to establish another station sixteen hundred feet from the station proposed to be abandoned. Ordered hearing set down for Tuesday, May 16, at 10 o'clock a. m., at the Fifth Avenue Hotel, New York city, and notice be advertised.

Application of the Long Island Railroad Company, under section 34 of the Railroad Law, for permission to discontinue certain stations on its Atlantic Avenue line. Ordered hearing set down for Tuesday, May 16, at 10 o'clock a. m., at the Fifth Avenue Hotel, New York city, and notice to be advertised.

In the matter of the application of the Syracuse, Skaneateles and Moravia Railroad Company for a certificate under section 59 of the Railroad Law, a hearing was set for Wednesday, May 10, at 10 a. m., in Albany.

In the matter of the application of the Cross Country Railroad Company, under section 59 of the Railroad Law, adjourned hearing was set down for Tuesday, May 16, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

In the matter of the application of the Babylon and North Shore Railroad Company for a certificate under section 59 of the Railroad Law, hearing was set down for Tuesday, May 16, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city. Notice to be advertised.

In the matter of the application of the Mineola, Hempstead and Freeport Traction Company for a certificate under section 59 of the Railroad Law, hearing was set down for Tuesday, May 16, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city. Notice to be advertised.

Reports.

Report of the electrical expert of the collision which occurred between cars on One Hundred and Twenty-fifth street and on Lexington avenue, New York city, March 15. Ordered filed. The electrical expert is to make an inspection and report of all similar crossings on Manhattan Island.

Inspections.

Report of the inspector of his inspection of the Manhattan Railway. Ordered copy sent company, with a letter, making the recommendations of the inspector the recommendations of the Board.

Report of the electrical expert of his examination of the Manhattan Railway structure as to electrolysis. Ordered copy sent company, with a letter, making the recommendations of the electrical expert the recommendations of the Board.

It was ordered that the inspector and the electrical expert make an examination immediately of all railroads carrying passengers to summer resorts and report in detail such recommendations as appear to them to be proper, especially as to rate of speed of trains and cars on such railroads.

It was ordered that the electrical expert make an inspection and report as to all points where street railroads cross each other, or cross steam railroads, on Manhattan Island.

Crossings.

Application of the president and trustees of the village of Corinth, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Hamilton avenue and the Adirondack Railroad. Ordered filed and grade crossing superintendent to make survey and report.

Application of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad by a highway known as the Abbott road, near the station on its railroad known as Windom, in Erie county. Ordered hearing set for May 23, in Buffalo, 10 a. m.

Report of Inspector Braze as to a grade crossing on the Fonda, Johnstown and Gloversville Railroad, near Gloversville. Ordered filed.

In the matter of the application of the town board of the town of Olean, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of the Western New York and Pennsylvania Railway, by Hastings cross road, determinations in which have been made by this Board, a letter was received from the company, enclosing new proposals for doing the work, the bridge to be constructed in the highway instead of over the cut. Ordered letter written the company, as shown by copy on file.

In the matter of the application of the town board of the town of Schodack, relative to Brookview avenue and other crossings of the Boston and Albany Railroad, the Board approved the bid of the Pittsburgh Testing Laboratory, viz.: sixty cents per ton, for mill and shop inspection of the bridge.

In the matter of the application of the town of Carrollton, under section 62 of the Railroad Law, as to abolishing the grade crossing of the State Road and the Buffalo, Rochester and Pittsburgh Railway, near the Carrollton depot. Ordered hearing set down for Buffalo, on Wednesday, May 24, at 10 o'clock a. m.

In the matter of the application of the town board of Newstead, under section 62 of the Railroad Law, as to abolishing the grade crossing of Buell street and the New York Central and Hudson River Railroad, in the vil-

lage of Akron. Ordered hearing set down for Buffalo, on Wednesday, May 24, at 10 o'clock a. m.

In the matter of the application of the city of Buffalo, under section 61 of the Railroad Law, as to the manner in which Goodyear avenue, in said city, shall cross the West Shore Railroad. Ordered hearing set down for Buffalo, on Wednesday, May 24, at 10 o'clock a. m.

In the matter of the application of the town of Leicester, under section 62 of the Railroad Law, as to abolishing the grade crossing of the Mount Morris Road and the Delaware, Lackawanna and Western Railroad. Ordered hearing set down for Rochester, on Thursday, May 25, at 12 o'clock noon.

In the matter of the application of the town of Brighton, under section 61 of the Railroad Law, as to the manner in which a continuation of Clover street shall cross the New York Central and Hudson River Railroad. Ordered hearing set down for Rochester, on Thursday, May 25, at 10 o'clock a. m.

In the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue B shall cross the New York Central and Hudson River railroad. Ordered hearing set down for Geneva, on Friday, May 26, at 10 o'clock a. m.

In the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue E shall cross the New York Central and Hudson River Railroad. Ordered hearing set down for Geneva, on Friday, May 26, at 10 o'clock a. m.

An opinion was received from the Attorney-General as to the effect of section 21 of the Railroad Law taken in connection with section 59 of the Railroad Law. Ordered filed.

Orders.

Application of the Rome City Street Railway Company for approval of an increase of its capital stock from \$50,000 to \$150,000. Granted.

Bills.

The following bills were approved:

General expenses.

Protective Ventilator Co.....	\$415 00
Thomas H. Christie (salary).....	45 00
Thomas H. Christie (expenses).....	45 00
United States Express Co.....	189 00
Charles R. Barnes (expenses).....	73 90
J. D. Shultz (expenses).....	80 70
Great Bear Spring Co.....	3 00

\$851 60

Grade crossing expenses.

A. H. Sutermeister (expenses).....	27 91
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\$879 51

The Board adjourned.

ALBANY, MAY 10, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

C. W. Buchholz, C. E., Erie Railroad Company, appeared before the Board with plans for the elimination of the grade crossings of the Erie Railroad at Woodlawn avenue and Reformatory street, in the city of

Elmira, (a determination in which has been made by this Board), including a plan of the bridge for carrying the railroad at Woodlawn avenue and an estimate of the cost of the work at Woodlawn avenue, exclusive of land damages. Mr. Buchholz stated that the plans had been submitted to the local authorities and approved by them. Ordered plans approved.

C. W. Buchholz, of the Erie Railroad Company, appeared before the Board in the matter of the application of his company for approval of an interlocking switch and signal apparatus where it crosses the Western New York and Pennsylvania Railway in Olean, a report upon which has been made by the inspector of this Board. The inspector is to be asked for a further verbal report.

Adjourned hearing in the matter of the application of the Syracuse, Skaneateles and Moravia Railroad Company for a certificate under section 59 of the Railroad Law. Hull Greenfield and Wing T. Parker appeared for the applicant; Ira A. Place for the New York Central and Hudson River Railroad Company, and George Barrow for the Skaneateles Railroad Company in opposition. Robert E. Drake appeared by letter in opposition, and asked for an opportunity to cross-examine witnesses produced at this hearing. After hearing evidence and arguments the hearing was adjourned to a date to be hereafter fixed.

Reports.

Report of the electrical expert as to an accident on the Rochester and Irondequoit Railroad, on Sunday, April 30. Ordered copy of the report sent to the company, with a letter, making the recommendations of the electrical expert those of the Board.

Bills.

The following bills were approved:

General expenses.

Hitchcock, Darling & Co.....	\$10 00
American Express Co.....	47 45
National Express Co.....	43 45
Hudson River Telephone Co.....	37 51
Albany District Telegraph Co.....	75
Western Union Telegraph Co.....	3 43
Postal Telegraph Cable Co.....	11 06
Jeremiah Chase	2 50
J. A. Heenan	2 00
Commissioner Frank M. Baker.....	20 36

\$178 51

Grade crossing expenses.

C. L. Lovejoy.....	22 00
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\$200 51

The Board adjourned.

NEW YORK, MAY 15, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Orders.

In the matter of the application of the town of Poland, under section 61 of the Railroad Law, as to the manner in which a highway in that town shall cross the Erie Railroad and the Nypano Railroad, it was determined that the highway shall be carried over the railroad above grade thereof. The Board adjourned.

NEW YORK, MAY 16, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the application of the Cross Country Railroad Company for a certificate under section 59 of the Railroad Law. James C. Church appeared for the applicant; F. S. Hensell (Tracy, Boardman & Platt) for the North Shore Railroad Company; A. A. Gardner for the Flushing and South Shore and the Long Island Railroad Companies. By agreement the hearing did not proceed, but was adjourned to a date to be hereafter fixed.

Application of the Babylon and North Shore Railroad Company for a certificate under section 59 of the Railroad Law. Charles L. Easton appeared for the applicant; and Dr. W. R. Bross, of West Islip, L. I., appeared as a property owner and asked for an adjournment. It was decided that the evidence of the applicant should be presented to-day, and that the hearing would then be adjourned to give opportunity for Dr. Bross and others to appear in opposition. The evidence offered by the applicant was taken. Evidence of the financial ability of the company may be presented at the next hearing.

Application of the Mineola, Hempstead and Freeport Traction Company for a certificate under section 59 of the Railroad Law. J. A. MacElhinny appeared for the applicant; A. A. Gardner for the Flushing and South Shore and the Long Island Railroad Companies, in opposition; and M. L. Bruce (18 Wall street) appeared for property owners in opposition to the building of the road on Greenwich street, in the village of Hempstead. The applicant did not present its case, but requested an adjournment. Adjourned to a date to be hereafter fixed.

Application of the Nassau Belt Line Traction Company for a certificate under section 59 of the Railroad Law. Fred Ingraham appeared for the applicant; M. L. Bruce for property owners in opposition to the building of the road on Greenwich street, in the village of Hempstead; and J. A. MacElhinny for the Mineola, Hempstead and Freeport Traction Company in opposition. After hearing evidence and arguments the hearing was held open pending an inspection of the road and report by the electrical expert. The Board is to notify the parties if it desires further evidence in this matter.

Application of the Long Island Railroad Company to discontinue certain stations on its Atlantic Avenue Division. A. A. Gardner appeared for the applicant; Samuel Hoff (140 Nassau street, New York city) for property owners in opposition, in relation to the Howard House station; F. E. Tilly, George Buss (162 Shaw avenue, Union Course, L. I.) and Theodore Keindl, appeared for property owners. After hearing evidence and arguments the hearing was closed. The Board subsequently inspected the stations proposed to be abandoned.

Application of the Long Island Railroad Company to discontinue its station at South Greenfield at present located, it being proposed to establish a new station 1,600 feet from the present one. A. A. Gardner appeared for the applicant; no one in opposition. Hearing closed.

The Board adjourned.

VALLEY STREAM, L. I., MAY 17, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Linwood avenue crossing of its railroad in the town of Hempstead, Nassau county, about three-fourths of a mile from its Woodsburgh station. A. A. Gardner for the company; Archibald Mutch, for citizens of Cedarhurst, in opposition; and James H. P. Vandewater, property owner, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the New York and Rockaway Beach Railway Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by Trotting Course Lane, near Glendale Junction, it being proposed to carry the highway over its railroad by means of a bridge. A. A. Gardner for the applicant; Louis A. Riese, of the city government, James T. Malone, assistant corporation counsel of the city of New York, John P. Madden, deputy highway commissioner of the city of New York, Jeromus Vanderveer, a property owner, and David Springsteen, a property owner, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Atlantic avenue, in Arverne. A. A. Gardner for the applicant; William Scheer for property owners, and James T. Malone, assistant corporation counsel of the city of New York, in opposition. After hearing evidence and arguments the hearing was closed.

Recess until 1 p. m.

AFTER RECESS—1 P. M.

The Board met at 1 p. m. All present.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Cedar avenue, in Arverne. A. A. Gardner for the applicant; William Scheer for property owners, and James T. Malone, assistant corporation counsel of the city of New York, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of a highway 2,270 feet east of the Edgemere station on said railroad. A. A. Gardner for the applicant; William Scheer for property owners, and James T. Malone, assistant corporation counsel of the city of New York, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Depot crossing of its railroad, in the town of Hempstead, Nassau county, near its Lawrence station. A. A. Gardner for the applicant; Peter Lucas for J. L. Wood, a property owner, in opposition. After hearing evidence and arguments the applicant withdrew its application, temporarily, stating that it would be renewed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Prospect avenue crossing of its railroad near Woodsburgh station in the town of Hempstead, Nassau county. A. A. Gardner for the applicant; Thomas Cort, a property owner, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Swamp road crossing of its railroad, in the town of Hempstead, Nassau county, about one and three-fourths miles from its Valley Stream station. A. A. Gardner for the applicant; Thomas Sprague, C. R. Bettes, Frank Horton and Frank G. Holley, in opposition. After hearing evidence and arguments the hearing was closed.

Recess until 5 p. m.

AFTER RECESS—5 P. M.

The Board met at 5 p. m. All present.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Lafayette Place crossing of its railroad, in the town of Hempstead, Nassau county. A. A. Gardner for the applicant; W. H. E. Jay for property owners, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Irving Place crossing, in the town of Hempstead, Nassau county, about one-half mile from the Hewletts station. A. A. Gardner for the applicant; W. H. E. Jay for property owners, in opposition. After hearing evidence and arguments the hearing was closed.

The Board adjourned.

FREEPORT L. I., MAY 18, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Jackson avenue crossing of its railroad, 1,930 feet east of the Wantagh station on its railroad. A. A. Gardner for the applicant; Albert W. Seaman for property owners, in opposition. After hearing evidence and arguments the hearing was closed. Mr. Seaman is to send in a brief by May 30.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Jones avenue crossing, in the town of Hempstead, Nassau county, about 4,710 feet east of its Bellmore station. A. A. Gardner for the applicant; Thomas B. Seaman, a property owner, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Earle avenue crossing of its railroad, in the town of Hempstead, Nassau county, about 850 feet east of its Lynbrook station. A. A. Gardner for the applicant; George Wallace, James H. Van Gelder, D. D. McKoon and Robert Dibble, property owners, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Christian Hook road crossing of its railroad, in the town of Hempstead, Nassau county, about 4,280 feet east of its Rockville Centre station. A. A. Gardner for the applicant; John Lyon and George Wallace for property owners, in opposition; Weller and Gillen, attorneys for the village of Rockville Centre (Mr. Gillen appearing) in opposition; Thomas T. Ramsden, Smith Combes and Henry T. Golden, highway commissioners of the town of Hempstead, and Smith

Cox, supervisor, also in opposition. After hearing evidence and arguments this application was held open.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Smith's road crossing of its railroad, in the town of Hempstead, Nassau county, about 5,770 feet east of its Freeport station. A. A. Gardner for the applicant; Frank Walker, Charles W. Smith, for his father, Augustus Smith and Charles C. Smith, property owners, in opposition. After hearing evidence and arguments the hearing was closed.

The Board adjourned.

 BABYLON, L. I., MAY 19, 1899—9 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Hyde's crossing of its railroad, in the town of Islip, Suffolk county. A. A. Gardner for the applicant; Joseph M. Belford, for property owners, and Joseph Wood, for the supervisor of the town of Islip, in opposition. After hearing evidence and arguments the hearing was closed.

The Board adjourned.

 ISLIP, L. I., MAY 19, 1899—11 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Depot road crossing of its railroad, in the town of Islip, Suffolk county, about 190 feet east of its Great River station. A. A. Gardner for the applicant; Joseph Wood, for the supervisor of the town of Islip, in opposition. After hearing evidence and arguments the hearing was closed.

The Board adjourned.

 BAYPORT, L. I., MAY 19, 1899—3 P. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Division avenue crossing of its railroad, in the town of Brookhaven, Suffolk county, about 1,725 feet west of its Patchogue station. A. A. Gardner for the applicant; Allan S. Jones, Forest Jones and George Jones in opposition; H. A. Tenney, Abraham Bailey, Reuben Rowley, R. J. McNeill, Jacob J. Murray and supervisor Edwin Bailey in favor of the proposed closing and the opening of a new piece of road on the south of the railroad. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Overton avenue crossing of its railroad, in the town of Islip, Suffolk county, about 1,500 feet east of its Sayville station. A. A. Gardner for the applicant; A. H. Carman for property owner, Joseph Wood for the supervisor of the town of Islip, Michael Venowitch and Julius Hauser, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the China avenue crossing of its railroad, in the town of Islip, Suffolk county, about 400 feet east of its Sayville station. A. A. Gardner for the applicant; Joseph Wood, for the supervisor of the town of Islip, in opposition; and Francis W. Wheeler, a property owner, in opposition. After hearing evidence and arguments the hearing was closed.

The Board adjourned.

EASTPORT, L. I., MAY 20, 1899—9 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Husted's road or Bayview avenue crossing of its railroad, in the town of Brookhaven, Suffolk county, about 1,410 feet west of its Eastport station. A. A. Gardner for the applicant; T. M. Griffing for the supervisor of the town of Brookhaven, Gilbert W. Rayner and David Dayton, property owners, in opposition. After hearing evidence and arguments the hearing was closed.

The Board adjourned.

PATCHOGUE, L. I., MAY 20, 1899—11 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law for the closing of the Grove avenue crossing of its railroad, in the town of Brookhaven, Suffolk county, about 4,080 feet east of its Patchogue station. A. A. Gardner for the applicant; T. M. Griffing for the supervisor of the town of Brookhaven, in opposition. The company withdrew this application.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Chapel Lane crossing of its railroad, in the town of Brookhaven, Suffolk county, about 6,470 feet east of its Patchogue station. A. A. Gardner for the applicant; T. M. Griffing for the supervisor of the town of Brookhaven, Henry W. Payne and other property owners, in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Pine Neck avenue crossing of its railroad, in the town of Brookhaven, Suffolk county, about 6,770 feet east of its Patchogue station. A. A. Gardner for the applicant; T. M. Griffing for the supervisor of the town of Brookhaven, in opposition, C. R. Smith for property owner, in opposition, and James C. King, a property owner, and other property owners, in opposition. After hearing evidence and arguments the case was closed.

The Board adjourned.

ALBANY, MAY 24, 1890.

The Board met pursuant to adjournment. Present Commissioners Cole and Dunn. Commissioner Baker absent in Buffalo and Rochester postponing hearings, such postponement having been made necessary by engagements of the Board.

The minutes of the meetings of May 3, 10, 15, 16, 17, 18, 19 and 20 were read and approved.

Complaints.

In the matter of Harrison Gilmore and son, of Utica, as to freight rates on coal on the New York, Ontario and Western Railway, between Utica and Otiskany Falls, a letter was ordered written to the complainants, notifying them that they may have a hearing in the matter before the Board on Wednesday, June 14, at 10 o'clock a. m., in Albany, if they notify the Board at once that they desire such hearing.

In the matter of the complaint of Ogden and Clark, of Utica, against the New York Central and Hudson River Railroad Company (Mohawk and Malone Division) as to freight rates on feed and grain, from Utica to stations between Forestport and Malone, a letter was ordered written to the complainants, stating that if they desired a hearing, one will be given them by the Board on Wednesday, June 14, at 10 o'clock a. m., in Albany, if they notify the Board at once.

In the matter of the complaint of Kate Day, of Cortland, against the Lehigh Valley Railroad Company, as to condition of fences along her land, copy of complaint sent to the company; answer of company received. Ordered letter written to the company, as shown by copy on file.

Van R. Weaver, of Utica, against the New York Central and Hudson River Railroad Company, as to its Genesee street crossing in that city. Ordered letter written to complainant, as shown by copy on file, and case closed.

In the matter of the complaint of the Board of Supervisors of Allegany county against the Erie Railroad and the Western New York and Pennsylvania Railway Company, as to condition of closets. No replies to the answer of the companies having been received, the matter was closed.

R. Daniel Krowarth, of Brooklyn, New York city, against the Long Island Railroad Company, as to alleged dangerous crossing of its railroad by Skillman street, corner of Jackson avenue, Second Ward, Long Island City. Ordered referred to the inspector for an investigation and report.

John A. Cipperly and others against the Troy City Railway Company, alleging poor condition of the Albia branch of said railway company and of the equipment used on said branch. Ordered copy sent the company.

Applications.

Application of the Northern Central Railway Company for approval of highway crossing signs. Ordered filed.

Reports.

In the matter of the report of the electrical expert of an accident on the Rochester and Lake Ontario Railway (leased to the Rochester and Irondequoit Railroad Company) dated May 9, letter was received from the president of the company, stating that the recommendations of the Board would be carried out. Ordered filed.

Orders.

Application of the Long Island Railroad Company for consent to discontinue its present station at South Greenfield, it being proposed to establish a new station about 1,600 feet from the present one, beside the station of the Brooklyn and Brighton Beach Railroad Company. Granted.

Application of the New York and Rockaway Beach Railway, under section 62 of the Railroad Law, for the abolishment of the grade crossing

of its railroad by a highway known as Trotting Course Lane, near Glendale Junction, in ward 2 of the borough of Queens, city of New York. Determination that the highway shall be carried across the railroad, above the grade of the railroad, by means of a bridge to be located near the present crossing.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Atlantic avenue, in Arverne, city of New York. Determination that the crossing be closed, and the travel may be diverted to other crossings in Arverne.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of Cedar avenue, in Arverne, New York city. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of a highway near the Edgemere station on said railroad. Denied for informality, with permission to renew. (The informality that property owners were not notified.)

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Prospect avenue crossing of its railroad, near its Woodsburgh station, in the town of Hempstead, Nassau county. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Lynwood avenue crossing of its railroad, in the town of Hempstead, Nassau county, about three-fourths of a mile from its Woodsburgh station. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Swamp road crossing of its railroad, in the town of Hempstead, Nassau county, about one and three-fourths miles from its Valley Stream station. Determination that the crossing be closed, the travel to be diverted by the building of a new piece of road to a crossing of the railroad by a highway known as West Broadway.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Jones avenue crossing of its railroad, in the town of Hempstead, Nassau county, about 4,710 feet east of its Bellmore station. Determination that the crossing be closed, the travel to be diverted to other highways and crossings.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Earle avenue crossing of its railroad, in the town of Hempstead, Nassau county, about 850 feet east of its Lynbrook station. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Christian Hook road crossing of its railroad, in the town of Hempstead, Nassau county, about 4,280 feet east of its Rockville Centre station. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Smith's road crossing of its railroad, in the town of Hempstead, Nassau county, about 5,770 feet east of its Freeport station. Determination that the crossing be closed, the travel to be diverted to another crossing by the construction of a new piece of highway.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Jackson avenue crossing of its railroad, about 1,930 feet east of the Wantagh station on said railroad. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Hyde's crossing of its railroad, in the town of Islip, Suffolk county. Denied on the ground that it is probably not a legally dedicated highway, with the recommendation that farm gates be placed at this crossing.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Division avenue crossing of its railroad, in the town of Brookhaven, Suffolk county, about 1,725 feet

west of its Patchogue station. Determination that the crossing be closed, the travel to be diverted to another highway by the building of a connecting piece of road.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the China avenue crossing of its railroad, in the town of Islip, Suffolk county, about 400 feet east of its Sayville station. Denied on the ground that it is proposed to move a freight house which is near the crossing, upon which removal the application may be renewed.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Overton avenue crossing of its railroad, in the town of Islip, Suffolk county, about 1,500 feet east of its Sayville station. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Depot road crossing of its railroad, in the town of Islip, Suffolk county, about 190 feet east of its Great River station. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the highway crossing of its railroad by Husted's road or Bayview avenue, in the town of Brookhaven, Suffolk county, about 1,410 feet west of its Eastport station. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Pine Neck avenue crossing of its railroad, in the town of Brookhaven, Suffolk county, about 6,770 feet east of its Patchogue station, and the diversion of the travel thereon to another crossing by building a connecting piece of road. Denied.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the closing of the Chapel Lane crossing of its railroad, in the town of Brookhaven, Suffolk county, about 6,470 feet east of its Patchogue station, and the diversion of the travel thereon to another crossing. Denied.

Resolution.

The following resolution was adopted:

Resolved, That James E. Brazee be and he hereby is continued temporarily in the work of inspecting certain grade crossings for the abolition or change of which applications are now pending before this Board, and for such service he shall receive the sum of \$5.50 per day.

Bills.

The following bills were approved:

General expenses.

A. M. Michael.....	\$1 80
Hughes, Simpson & Co.....	35 00
Brandow Printing Co.....	36 48
Stuart G. Speir.....	3 50

\$76 78

Grade crossing expenses.

John S. Kenyon (travelling expenses).....	14 50
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\$91 28

The Board adjourned.

ALBANY, MAY 25, 1890.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent in Buffalo and Rochester postponing hearings, such postponement having been made necessary by engagements of the Board.

Crossings.

Report of the superintendent of the grade crossing bureau as to the Tenth avenue bridge, Mount Vernon, constructed in pursuance of the provisions of section 61 of the Railroad Law, recommending that the work be approved. Ordered that said work be approved.

Application of the Lehigh and Hudson River Railway Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad by a highway known as the Bellvale road, in the town of Warwick, Orange county. Ordered that the superintendent of the grade crossing bureau make a survey and report as to the proposed change.

W. W. Bingham against the Delaware and Hudson Canal Company, as to alleged dangerous crossing of its railroad at Main street, in Salem. Report of Mr. Brazee of his inspection of the crossing. Ordered letter written to the company, suggesting that an employee be stationed at the crossing to act as a flagman while switching is going on, as shown by copy on file. Letter also ordered written complainant. Closed.

In the matter of the application of the village of Herkimer, under section 61 of the Railroad Law, as to Folts street, in said village, crossing the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), a determination in which that street shall be carried over the railroad by means of a bridge, was made by this Board on January 6, 1899, a request was received from the village that the Board determine the height, length and material of the bridge, and the length, character and grade of the approaches thereto. Ordered that the superintendent of the grade crossing bureau make a survey of the point in question and report to the Board.

In the matter of the application of the town board of the town of Olean, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Western New York and Pennsylvania Railway by the Hastings crossroad, determinations in which have been made by this Board, plans and specifications and an estimate of the expense, namely: \$4,847.71, and new proposals for doing the work, (the bridge to be constructed in the highway, instead of over the cut) namely: that of the Rochester Bridge and Iron Works for the superstructure, namely: for the metal work (except the railing) per pound, 2.96 cents; for the railing, per lineal foot, 60 cents; for the floor, per thousand feet B. M. \$35.00; and that of C. E. Napier, for the substructure, namely: for excavation and backfilling, 30 cents; for concrete in foundations, \$5.50; for pier masonry, \$10.00; for abutment masonry, \$8.00, were ordered approved.

Application of the East Side Traction Company of Syracuse, under section 68 of the Railroad Law, for a determination of the manner in which its railroad shall cross over the tracks of the New York Central and Hudson River Railroad, in the village of East Syracuse, Onondaga county. Ordered hearing set down for Albany, Wednesday, June 14, at 10 o'clock a. m.

In the matter of the application of the town of Newstead, Erie county, under section 62 of the Railroad Law, for the abolishment of the grade crossing of Buell street and the New York Central and Hudson River Railroad, in the village of Akron, a petition was received from the village of Akron, joining in the petition. Ordered hearing set down for Wednesday, June 14, at 10 o'clock a. m., in Albany. (It is proposed to carry Buell street over the railroad).

In the matter of the application of the town board of the town of Schodack, under section 62 of the Railroad Law, relative to Brookview avenue and other crossings of the Boston and Albany Railroad, the Board approved plans and specifications for that portion of the bridge over the driveway and the bid of the Hilton Bridge Construction Company, of Albany, N. Y., for the bridge, namely: 8½ cents per pound.

The Board adjourned.

ALBANY, JUNE 2, 1899.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn.

Crossings.

In the matter of the abolishment of the Bridge street crossing of the New York Central and Hudson River Railroad, at St. Johnsville, a determination as to which was made by this Board on November 23, 1896, the Board approved the proposal of the Hilton Bridge Company, viz: \$7,900, with \$65 more added, for the construction of the bridge.

The Board adjourned.

BUFFALO, JUNE 6, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the city of Buffalo, under section 61 of the Railroad Law, as to the manner in which Goodyear avenue, in said city, shall cross the West Shore Railroad. Henry W. Killeen for the city; Charles A. Pooley for the West Shore Railroad. After hearing evidence and arguments, the hearing was closed.

Application of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of its railroad by a highway known as the Abbott road, near the station on its railroad known as Windom, Erie county. John S. Rockwell for the applicant; Fayette Kelly for the town of Hamburg; George Briggs for the town of East Hamburg; W. J. Benedict for Mrs. Bassett, a property owner; James J. Lawless for himself as a property owner; John Titus for himself as a property owner; Adam Benzing for the Buffalo, Hamburg and Aurora Railroad Company. After hearing evidence and arguments the hearing was closed.

In the matter of the application of the town of Carrollton, under section 62 of the Railroad Law, as to abolishing the grade crossing of the State road and the Buffalo, Rochester and Pittsburgh Railway, near the Carrollton depot, a hearing on which was to have taken place to-day, the hearing was adjourned by consent of both sides to a date to be hereafter fixed.

Application of the town board of the town of Dayton, Cattaraugus county, under section 61 of the Railroad Law, as to the opening of a new highway across the Erie Railroad, near Markhams station. James E. Bixby for the applicant; Adelbert Moot for the Erie Railroad Company. After hearing evidence and arguments the hearing was closed.

The Board inspected the proposed route of the South Buffalo Railway Company.

The Board adjourned.

ROCHESTER, JUNE 7, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the town of Brighton, under section 61 of the Railroad Law, as to the manner in which a continuation of Clover street shall cross the New York Central and Hudson River Railroad. J. B. Perkins

appeared for the town board; F. J. Hone for A. B. Hone and others, property owners; R. B. Wickes for the Stoddard estate; Edward Harris for the New York Central and Hudson River Railroad Company in opposition. After hearing arguments on the question as to the necessity for the town giving the railroad company notice of hearing on the question of the necessity for the highway or portion of highway, under section 61 of the Railroad Law, the Board held that such notice and opportunity for hearing is necessary, and it appearing that it had not been given in this case, the Board decided not to entertain the application at this time.

Application of the town of Leicester, under section 62 of the Railroad Law, as to abolishing the grade crossing of the Mount Morris road and the Delaware, Lackawanna and Western Railroad. John F. White, supervisor, and E. B. Keeney, for the town; James Archbald for the Delaware, Lackawanna and Western Railroad. After hearing the parties the hearing was closed.

The Board adjourned.

GENEVA, JUNE 8, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue B shall cross the New York Central and Hudson River Railroad. John G. Farwell for the city; A. H. Harris for the New York Central and Hudson River Railroad Company. Application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue E shall cross the New York Central and Hudson River Railroad. John G. Farwell for the city; L. G. Hoskins for property owners near Avenue E; A. H. Harris for the New York Central and Hudson River Railroad Company. These cases were heard together. After discussion the hearings were adjourned until Tuesday, September 5, 10 a. m., in Albany. In the meantime, the city may make an application, under section 61 of the Railroad Law, as to Avenue F. The suggestion was made at the hearing that a foot-bridge at Avenue B would be sufficient.

The Board adjourned.

ALBANY, JUNE 13, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Jamestown Terminal Railroad Company for a certificate under section 59 of the Railroad Law. H. R. Lewis and W. F. Endress for the applicant. Jerome B. Fisher for the Jamestown Street Railway Company in opposition. After hearing evidence and arguments the hearing was closed. Both sides are to exchange and file briefs within twenty days.

Adjourned hearing in the matter of the application of The Syracuse, Skaneateles and Moravia Railroad Company for a certificate under section 59 of the Railroad Law. Charles R. Milford and Wing T. Parker for the applicant; Ira A. Place for the New York Central and Hudson River Railroad Company, Robert E. Drake for the Syracuse Rapid Transit Railway Company, and George Barrow for the Skaneateles Railroad Company, in opposition. After hearing evidence and arguments a recess was taken until 2.30 p. m.

AFTER RECESS—2.30 P. M.

The hearing in the matter of the application of The Syracuse, Skaneateles and Moravia Railroad Company was resumed. After hearing evidence and arguments further the hearing was closed. Briefs are to be exchanged within twenty days, and to be filed with this Board within thirty days.

The hearing in the matter of the application of the East Side Traction Company of Syracuse, under section 68 of the Railroad Law, as to crossing the freight tracks of the New York Central and Hudson River Railroad, in the village of East Syracuse, which was to have taken place to-day, was adjourned to a date to be hereafter fixed by agreement of counsel. Robert E. Drake appeared for the East Side Traction Company; Ira A. Place for the New York Central and Hudson River Railroad Company.

In the matter of the application of the village of Celeron, under section 61 of the Railroad Law, as to Durham avenue, the hearing in which was to have taken place to-day, the matter was submitted by E. E. Woodbury, attorney for the village. Jerome B. Fisher appeared for the Erie Railroad Company. Mr. Woodbury did not appear in person. Closed.

The Board adjourned.

ALBANY, JUNE 14, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the town board of the town of Newstead and the president and trustees of the village of Akron, Erie county, under section 62 of the Railroad Law, as to abolishing the grade crossing of Buell street and the New York Central and Hudson River Railroad. James E. Paxon appeared for the petitioners. Ira A. Place and W. J. Wilgus appeared for the New York Central and Hudson River Railroad Company. It was decided that the plans for the proposed overhead bridge at this point be changed so that the bents upon which the bridge is to rest shall be placed upon stone foundations.

Ogden & Clark, of Utica, against the New York Central and Hudson River Railroad Company (Mohawk and Malone Division) as to rates on grain and feed from Utica. Frank C. Ogden appeared for complainants. Ira A. Place and Samuel Goodwin appeared for the New York Central and Hudson River Railroad Company. After hearing evidence and arguments the hearing was closed.

Application of the South Buffalo Railway Company for a certificate under section 59 of the Railroad Law. John G. Milburn appeared for the applicant. John S. Rockwell appeared for the Buffalo, Rochester and Pittsburgh Railway Company. Ira A. Place appeared for the New York Central and Hudson River Railroad Company in opposition. After hearing evidence and arguments the hearing was adjourned until Wednesday, June 21, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city. It may be that before this date the opposition will be withdrawn. If so the Board is to be notified and the hearing is to be considered closed.

Complaints.

Ira Dwight, of Freeville, Tompkins county, against the Lehigh Valley Railroad Company, as to condition of fences along his land. Letter written the company as shown by copy on file. Answer of company received. Ordered copy of company's letter sent to Ira Dwight, Freeville; E. M. Pettis, South Cortland; and Kate Day, Cortland, who have also

made complaints against condition of the fences on this branch of the Lehigh Valley Railroad, and said cases closed.

S. D. Haviland against the Port Jervis, Monticello and New York Railroad Company, as to alleged lack of train service on its Summitville Branch. Letter written the company, as shown by copy on file, with instructions to answer.

Tax Payers' Alliance of the Borough of the Bronx, New York city, against the Manhattan Railway Company, as to failure to build on certain portions of its route. Copy sent company.

F. K. Baxter against the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, as to station on the latter railroad at Utica. Letter received from complaint. Ordered letter written the company, as shown by copy on file.

H. P. Beardsley against the Long Island Railroad Company, as to overcrowding of cars from Rockaway Beach, May 30, 1899. Copy sent company. Answer of company received. Copy of answer of company sent complainant. Reply received, stating that the answer is "very satisfactory." Closed.

Citizens' Improvement Association of Hollis, L. I., against the Long Island Electric Railway Company, as to rates of fare. Copy sent company. Answer of company received. Copy sent complainant. Reply of complainant received.

Applications.

In the matter of the application of the Stony Point Harbor and Terminal Junction Railroad Company, a request was received from the company that said application may be withdrawn. Ordered said request granted.

Application of the Long Island Railroad Company, under section 36 of the Railroad Law, for approval of an interlocking switch and signal apparatus at the grade crossing of its Atlantic and Manhattan Beach Divisions, in East New York. Ordered that an inspection of the apparatus be made by the superintendent of the grade crossing bureau.

In the matter of the application of the Massena Electric Street Railway Company for a certificate under section 59 of the Railroad Law, a copy of an agreement with the commissioner of highways of the town of Massena, St. Lawrence county, as to strengthening of bridges on the proposed route of the company, was received and ordered filed.

Reports.

Report of the Inspector of his inspection of the branches of the Long Island Railroad running to sea-side resorts. Copy sent company. Letter received from company in regard thereto. Ordered filed.

Report of the Inspector of his inspection of the Staten Island Rapid Transit Railroad and the Staten Island Railway. Copy sent the companies.

Report of the Inspector of his inspection of the Rochester and Lake Ontario Railway, leased to the Rochester and Irondequoit Railroad Company. Copy sent the company, with a letter, making the recommendations of the Inspector the recommendations of the Board. Letter received from the company, stating the recommendations would be complied with.

Report of the Inspector of his inspection of the Brooklyn and Rockaway Beach Railroad. Copy sent the company, with a letter making the recommendations of the Inspector the recommendations of the Board. Letter received from the company, stating the recommendations would be complied with.

Report of the Inspector of his inspection of the Little Falls and Dolgeville Railroad. Copy sent the company, with a letter, making the recommendations of the Inspector the recommendations of the Board. Letter received from the company, stating the recommendations would be complied with.

Report of the inspector of his inspection of the Brooklyn Elevated Railroad. Ordered copy sent the company, with a letter, making the recommendations of the inspector the recommendations of the Board.

Report of the inspector of his inspection of the Kings County Elevated Railroad. Ordered copy sent the company, with a letter, making the recommendations of the inspector the recommendations of the Board.

Crossings.

Petition of the mayor and common council of the city of Middletown, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Genung street and the Erie Railroad and the New York, Susquehanna and Western Railroad, an undercrossing being proposed. Ordered filed.

Complaint of the village of Clyde against the New York Central and Hudson River Railroad Company, as to planking the Glasgow street and Sodus street crossings of that railroad. Copy sent the company.

Petition of the town board of the town of Colesville, Broome county, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the railroad operated by the Delaware and Hudson Company and the highway leading from Eugene Farrington's residence to the main road, leading west from Sanitaria Springs, the exact relief proposed not appearing in the petition. Ordered hearing set down at Binghamton 10 a. m., Wednesday, June 28.

Petition of the mayor and common council of the city of Johnstown, under section 62 of the Railroad Law, for the abolishment of the grade crossing of West Main street and the Fonda, Johnstown and Gloversville Railroad, the proposition being to carry the street over the railroad by means of a bridge. Ordered filed.

Petition by the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossings of Chenango street and the Delaware, Lackawanna and Western Railroad, the Erie Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company), and the abolishment of the grade crossings of Bevier street and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company), and the Syracuse, Binghamton and New York Railroad, it being proposed to carry Chenango street over the railroads by means of a bridge and Bevier street under the railroads. Ordered hearing set down for Binghamton, common council chamber 10 o'clock a. m., Wednesday, June 28.

In the matter of the application of the town board of the town of Olean, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Western New York and Pennsylvania Railway by the Hastings crossroad, determinations in which have been made by this Board, bids for the approaches to the bridge were received from the town, and the bid of Zeno Beseeker, viz.: for embankment, consisting of about 3,466 cubic yards, 20 cents per yard, \$693.20; 36 lineal feet C. I. drain pipe, 65 cents per foot, \$23.40; 52 rod post and board fences, \$1.25 per rod, \$65; total, \$781.60, were ordered approved.

Orders.

In the matter of the application of the village of Herkimer, under section 61 of the Railroad Law, as to Folts street, in said village, crossing the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), a determination in which was made by this Board on January 6, 1899, the village having requested the Board to determine the height, length and material of the bridge and the length, character and grades of the approaches thereto, the Board determined such matter as shown by report, with plans attached, of the superintendent of the grade crossing bureau on file, and notified the company and the village, sending them copies of the report and plans.

Application of the Massena Electric Street Railway Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the president and trustees of the village of Celeron, under section 61 of the Railroad Law, as to Dunham avenue. Determination that the crossing be made by means of a substantial wooden bridge over the railroads, with bents resting on stone foundations.

Application of the Syracuse, Lakeside and Baldwinsville Railway Company, under section 68 of the Railroad Law, for a determination as to the manner in which its railroad shall cross the Delaware, Lackawanna and Western Railroad, near the Syracuse street bridge over the Seneca river, in the village of Baldwinsville. Determination that the crossing may be made at grade, with derailing switches in the track or tracks of the Syracuse, Lakeside and Baldwinsville Railway.

In the matter of the application of the town board of the town of Schodack, under section 62 of the Railroad Law, relative to Brookview avenue and other crossings of the Boston and Albany Railroad, an original agreement, dated April 27, 1899, as to an approach under the bridge to the station was filed with the Board.

In the matter of the application of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of its railroad by a highway known as the Abbott road, near the station on its railroad known as Windom, Erie county. Determination that the highway shall be carried under the railroad.

Application of the city of Buffalo, under section 61 of the Railroad Law, as to the manner in which Goodyear avenue, in said city, shall cross the West Shore Railroad. Determination that it shall cross underneath the railroad.

Application of the town of Leicester, Livingston county, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of the Mount Morris road and the Delaware, Lackawanna and Western Railroad. Determination that said crossing be closed, and the travel diverted by the building of a new piece of highway to an existing undercrossing.

Application of the town board of the town of Dayton, Cattaraugus county, under section 61 of the Railroad Law, as to the opening of a new highway across the Erie Railroad, near Markhams station. Determination that the highway shall be carried over the railroad by means of a bridge.

Bills.

The following bills were approved:

General expenses.

Hitchcock, Darling and Company.....	\$10 00
Westcott Express Company.....	33 00
Warren Mead	7 50
J. D. Shultz (expenses).....	81 10
Charles R. Barnes (expenses).....	149 42
Hudson River Telephone Company.....	39 74
Western Union Telegraph Company.....	3 84
Albany District Telegraph Company.....	1 25
Great Bear Spring Company.....	2 10
Postal Telegraph Cable Company.....	22 26
National Express Company	24 40
American Express Company.....	33 21
United States Express Company.....	4 50
The Smith Premier Typewriter Company.....	1 50
Koelsch & Shafer.....	1 45
Sampson, Murdock & Co.....	3 00
Ashley W. Cole (expenses).....	45 12

\$463 39

Grade crossing expenses.

James E. Brazee (expenses).....	\$14 50
James E. Brazee (expenses).....	28 70
A. H. Sutermeister (expenses).....	31 08
Susan G. Oakley	14 00
Ashley W. Cole (expenses).....	45 67
	<hr/>
	\$133 95

Special appropriation for printing additional reports.
 Wynkoop Hallenbeck Crawford Company..... \$1,977 80

The Board adjourned.

NEW YORK, JUNE 21, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Babylon and North Shore Railroad Company for a certificate under section 59 of the Railroad Law. Charles L. Easton and George B. Studley for the applicant. Dr. W. R. Bross of West Islip, L. I., E. B. Sutton and Henry P. Keith in opposition. After hearing evidence and arguments the hearing was closed.

Application of the Mineola, Hempstead and Freeport Traction Company for a certificate under section 59 of the Railroad Law. J. A. MacElhinny and Louis Bedell for the applicant. Fred Ingraham for the Nassau Belt Line Traction Company in opposition. M. L. Bruce for Ann E. Eldridge, a property owner on Greenwich street, in the village of Hempstead, in opposition to the building of the road on that street. After hearing evidence and arguments the hearing was closed, except so far as opposition that may be presented by Bishop Littlejohn is concerned. Ordered letter written to Bishop Littlejohn, as shown by copy on file. Mr. MacElhinny is to file a brief.

Application of the Long Island Railroad Company as to approval of signal system at the crossing of its Atlantic and Manhattan Beach Divisions. W. F. Potter for the applicant. The Board decided to inspect the crossing.

The electrical expert reported progress in the matter of the brake test. His action in such matter was approved, and permits for the equipment of cars were ordered issued to the owners of brakes recommended by him.

Orders.

Application of the South Buffalo Railway Company for a certificate under section 59 of the Railroad Law. Granted.

The Board adjourned.

BINGHAMTON, JUNE 28, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade

crossings of Chenango street and the Delaware, Lackawanna and Western Railroad, Erie Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company), and the abolishment of the grade crossings of Bevier street and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company), and the Syracuse, Binghamton and New York Railroad, it being proposed to carry Chenango street over the railroads by means of a bridge, and Bevier street under the railroads. The appearances as to Chenango street were as follows: Frank Stewart and Jerome Dewitt, mayor, for the city; H. C. Perkins for W. T. Spaulding, a property owner; Edmund F. Jones for the Board of Trade of Binghamton, in favor of the application; Thomas J. Keenan for Kennedy and Tierney, property owners; H. C. Walker and James T. Rogers for tax-payers of the 11th and 13th wards, in favor of the application; Carver & Deyo, by D. H. Carver, for Theodosia D. Jessop, Mary E. Lockwood, James W. Maniere, as trustee, etc., of Anna M. Leveritt, property owners on the west side of Chenango street; W. J. Welch for the Binghamton Trust Company as guardian of the infant William L. March; D. S. Richards for the Delaware, Lackawanna and Western Railroad Company (lessee of the New York, Lackawanna and Western Railroad), not in opposition; C. F. O'Brien for Ehresman and Schwab, and Lawrence McDonald, property owners on Chenango street; Herbert E. Crittenden, property owner, for himself and by R. B. Richards, his attorney; G. F. Brownell and W. D. Painter for the Erie Railroad Company; C. D. Hammond for the Delaware and Hudson Company. Appearances as to Bevier street, Frank Stewart and Jerome Dewitt for the city; C. D. Hammond for the Delaware and Hudson Company; D. S. Richards for the Syracuse, Binghamton and New York Railroad Company, in opposition.

After hearing evidence and arguments the hearing in the Bevier street matter was closed, and the hearing in the Chenango street matter was adjourned until Friday, July 28, at 10 a. m., at the common council chamber, Binghamton. In the mean time representatives of the city, and the railroad companies and this Board are to confer as to the structure.

Recess until 2:15 p. m.

AFTER RECESS—2.15 P. M.

Hearings.

Petition of the town board of the town of Colesville, Broome county, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the railroad operated by the Delaware and Hudson Company and the highway leading from Eugene Farrington's residence to the main road, leading west from Sanitaria Springs. B. B. Badger, supervisor, for the town board; H. C. Perkins for J. W. Gayno and C. O. Reynolds, property owners; C. D. Hammond for the Delaware and Hudson Company; E. K. Clark for Ellen Sullivan, property owners; C. A. Wilbur for Eugene Farrington and other property owners; W. A. Tyler, property owner, for himself. Without taking any evidence, the hearing was adjourned until Friday, July 28, at 10 o'clock a. m., at the common council chamber, Binghamton.

Orders.

Petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossings of the Syracuse, Binghamton and New York Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company). Determination that Bevier street be carried under said railroads.

The Board adjourned.

ELMIRA, JUNE 29, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Applications of the Olean Street Railway Company, under chapter 583 of the Laws of 1890, for the consent of the Board to the issue by said company of \$225,000 first mortgage bonds and the issue by it of \$60,000 second mortgage bonds (applications laid before the Board for the first time to-day). Fred L. Eaton for the applicant. The applications were granted.

Application of the mayor and common council of the city of Elmira, under section 62 of the Railroad Law, for the abolishment of the grade crossings of the Erie Railroad by Pennsylvania avenue and Partridge street (petition laid before the Board for the first time to-day). M. O'Connor, city attorney, for the city; John B. Stanchfield for the Erie Railroad Company; E. G. Herendeen for Harris, McHenry and Baker, property owners; George McCann for William H. Blight and Hattie P. Blight, property owners; Frank Fitzgerald for the heirs of Martin Frawley, property owner; Mrs. Etta P. Norwood, property owner, for herself; James M. Rae, property owner, for himself. After hearing evidence and arguments the hearing was adjourned to a date to be hereafter fixed, to be held in Elmira. In the mean time the city and the railroad company are to submit new plans for the proposed undercrossing.

Applications.

Application of the Central New York and Northern Railroad Company for a certificate, under section 59 of the Railroad Law. Ordered hearing set for Tuesday, July 18, at 10 o'clock a. m., in Albany, and notice to be advertised. The inspector to make a report.

Orders.

Application of the Olean Street Railway Company, under chapter 583 of the Laws of 1890, for the consent of the Board to the issue by said company of \$225,000 first mortgage bonds, and the issue by it of \$60,000 second mortgage bonds. Granted.

Application of the Long Island Railroad Company to discontinue certain stations on its Atlantic avenue division, Brooklyn. Granted, as shown by order on file.

It was ordered that the Secretary call upon the Civil Service Commission for the name of a person to serve, on approbation, as bookkeeper, at a salary at the rate of \$1,500 a year, the appointment to take effect the first day of July, 1899.

The Board adjourned.

ALBANY, JULY 18, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of June 13, 14, 21, 28 and 29 were read and approved.

Hearings.

Application of the Central New York and Northern Railroad Company for a certificate under section 59 of the Railroad Law. Frank Sullivan Smith and John Raines for the applicant; James Archbald for the Delaware, Lackawanna and Western Railroad Company, C. E. Paulding for

the New York Central and Hudson River Railroad Company, J. F. Schaperkott for the Lehigh Valley Railroad Company, George M. Diven for the Northern Central Railway Company, George F. Brownell for the Erie Railroad Company. Without the taking of evidence the hearing was adjourned until Monday, July 24, 1899, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

Complaints.

The mayor and common council of the city of Johnstown against the Johnstown, Gloversville and Kingsboro Street Railroad, leased by the Fonda, Johnstown and Gloversville Steam Railroad Company, asking that the tracks of the first named railroad be removed on a portion of North Perry street, Johnstown, from the side to the center of the street. This petition was presented to the Board for the first time to-day by Borden D. Smith, city attorney. Ordered that a letter be written the Attorney-General, asking whether in his opinion this Board has jurisdiction in such matter.

Lewis M. Selkirk, of Castleton, Rensselaer county, against the New York Central and Hudson River Railroad Company, as to the grades of private roads on his farm crossing the railroad. Copy sent the Company. Answer of the company received. Reply of complainant to answer of company received. Letter written the company, as shown by copy on file. Letter received from company, stating work would be done at once. Copy sent complainant.

William C. Smyth against the Nassau Railroad Company (Brooklyn Heights Railroad Company) regarding flat wheels under street cars operated on Marcy avenue, Brooklyn. Copy sent the company. Answer of the company received, stating that the cause of complaint will be remedied. Copy of the company's answer sent complainant. Closed.

S. D. Haviland against the Port Jervis, Monticello and New York Railroad Company as to alleged lack of train service on its Summitville Branch. Answer of the company received. Letter written complainant, as shown by copy on file. Report received from the inspector as to the physical condition of the Summitville Branch. Copy sent the company, making the recommendations of the inspector those of this Board. Copy of the report also sent complainant. Ordered that the inspector make another inspection of the railroad within sixty days from the date of his first report. Closed.

Gilbert Vandervort against the Lehigh Valley Railroad Company as to the condition of the railroad fence along his land near the village of Manchester. Copy sent the company. Answer of the company received, stating that the old fence has been removed and a new one put in its place. Copy sent complainant. Closed.

Recess until 2 p. m.

AFTER RECESS—2 P. M.

All of the Commissioners present.

Complaints.

Lewis Manz against the Rochester and Irondequoit Railway Company as to alleged dangerous condition of an engine in use on that railroad. Answer of the company received, controverting the allegations of the complainant. Ordered letter written complainant, as shown by copy on file, and that the electrical expert make an inspection and report on the condition of the railroad.

John A. Clipperly and others against the Troy City Railway Company as to the condition of its Albia Branch. Letter received from Henry Wheeler, asking that his name be erased from the complaint. Ordered filed.

W. G. Palmer against the Silver Lake Railway Company as to refusal of the company to deliver freight at Perry, N. Y., on printed orders from

the complainant. Copy sent the company. Answer of the company received, stating that it objects to delivering freight consigned to the complainant to other persons on printed orders without the surrender of the original bill of lading or an order over complainant's written signature. Ordered copy sent complainant, with a letter, stating that it is the opinion of this Board that the position of the company is not unreasonable, and case closed.

C. J. Howden, of Fillmore, N. Y., against the Western New York and Pennsylvania Railway Company as to its station at Fillmore. Copy sent the company, and an inspection of the station and report made by the inspector of this Board, with recommendations that the present station building be given up entirely to freight and that a new building be erected to provide for office and waiting rooms for passengers. Copy of the inspection report sent the company, with a letter, making the recommendations of the inspector those of this Board. Letter received from the company, stating that the station would be enlarged. Copy of this letter sent complainant, with a letter, as shown by copy on file.

F. W. Sprague, of Hallesboro, St. Lawrence county, against the New York Central and Hudson River Railroad Company (R. W. and O. Division) as to the discontinuance of the agent at the Hallesboro station. Copy sent the company. Answer of the company received. Ordered copy sent the complainant, and that the inspector make an inspection of the point in question.

Abe Stein against the Long Island Railroad Company as to persons crossing over one track to the other to get trains at Arverne. Copy sent the company.

C. W. Wentz, of Moreland station, Schuyler county, against the New York Central and Hudson River Railroad Company (Fall Brook Division) as to the alleged abandonment of the station or stop at Moreland. Copy sent the company.

Amanda Johanson against the Central Crosstown Railroad Company and the Metropolitan Street Railway Company as to "center-bearing" rails. Closed.

Harrison Gilmore and son, of Utica, against the New York Ontario and Western Railway Company as to rates on coal to Oriskany Falls. Closed.

Applications.

Application of the Kings County Elevated Railroad Company, under sub-division 10 of the Railroad Law, as amended by chapter 583 of the Laws of 1899, for consent to the issue of a mortgage to secure bonds to the amount of \$7,000,000. This application was laid before the Board for the first time to-day by Charles L. Kingsley, representing Tracy, Boardman & Platt, attorneys for the applicant. Ordered consent granted.

Application of the Penn Yan, Lake Kenka and Southern Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down in the city of Binghamton, common council chamber, for Friday, July 28, 1899, at 10 o'clock a. m., and notices advertised. Electrical expert to make a report.

Application of the Perry, Castile, Silver Springs and Pike Railway Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down at Perry, August 3, 1899, at 10:30 o'clock a. m. Electrical expert to make a report.

Application of the Central New York and Western Railroad Company for approval of an increase of its capital stock from \$1,000,000 to \$2,000,000. Ordered filed.

Application of the New York Central and Hudson River Railroad Company, under section 34 of the Railroad Law, for consent to the discontinuance of the station on the West Shore Railroad known as "Utica." Ordered hearing set down for Friday, August 4, 1899, at 10 o'clock a. m., at the office of the Board in Albany.

Application of the Greenwich and Schuylerville Electric Railroad, under chapter 597 of the Laws of 1899, for the revocation of the certificate under section 59 of the Railroad Law heretofore granted to the Hudson River and Washington County Midland Railroad Company. Ordered hearing set down for Friday, August 4, 1899, at 10 o'clock a. m., at the office of the Board in Albany.

Application of the Massena Electric Street Railway Company, under section 100 of the Railroad Law, for approval of the operation of its railroad by the overhead electrical trolley system. It appearing that a certificate under section 59 of the Railroad Law has been granted to this company, ordered that this application be approved.

Application of the Poughkeepsie and Eastern Railway Company for approval of highway crossing signs. Ordered filed.

Application of the Genesee and Wyoming Railroad Company for approval of highway crossing signs. Ordered filed.

Application of the New York and Pennsylvania Railroad Company for approval of highway crossing signs. Ordered filed.

Application of the Lehigh Valley Railroad Company for approval of highway crossing signs. Ordered filed.

Application of the Coxsackie and Greenville Traction Company for approval of an increase of its capital stock from \$200,000 to \$350,000. Ordered hearing set down for Monday, July 24, 1899, at 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

Application of the New York, Lackawanna and Western Railroad Company (operated by the Delaware, Lackawanna and Western Railroad Company), under section 36 of the Railroad Law, for approval of an interlocking switch and signal apparatus in use at the crossing of the railroad of the applicant and the Erie Railroad, west of Painted Post, and at the crossing of the railroad of the applicant and the Erie Railroad east of Mount Morris, and that the full stop of trains and crossing on signal at said crossings may be discontinued. Ordered that the superintendent of the grade crossing bureau make an inspection of the apparatus and report.

Hearings set.

Application of the mayor and common council of the city of Johnstown, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of West Main street on the Fonda, Johnstown and Gloversville Railroad. Hearing set for Friday, August 4, 1899, at 10 o'clock a. m., at the office of the Board in Albany.

Orders.

Application of the Kings County Elevated Railroad Company, under subdivision 10 of the Railroad Law, as amended by chapter 583 of the Laws of 1899, for consent to the issue of a mortgage of \$7,000,000. Granted.

Application of the Babylon and North Shore Railroad Company for a certificate under section 59 of the Railroad Law. Denied.

Application of the Long Island Railroad Company, under section 36 of the Railroad Law, for approval of an interlocking switch and signal apparatus and consent to the discontinuance of the full stop of trains and crossing on signal at the crossings of its Atlantic and Manhattan Beach Divisions, in East New York. Denied on the ground that the signal apparatus in use is not sufficient.

Application of the Massena Electric Street Railway Company, under section 100 of the Railroad Law, for approval of the overhead electrical trolley system of motive power. Granted.

Application of the Jamestown Terminal Railroad Company for a certificate under section 59 of the Railroad Law. Denied.

Bills.

The following bills were approved:

General expenses.

J. B. Lyon Company	\$39 00
J. B. Lyon Company	26 00
Albany Evening Journal (William Grady).....	75
E. C. McEntee (expenses).....	20 00
Wm. McNelly (postage).....	100 00
Harry W. Riggs	9 00
C. P. Gray	10 00
Rodgers, Ruso and Kelly.....	40 75
National Press Intelligence Company.....	11 10
Great Bear Spring Company.....	2 40
Western Union Telegraph Company.....	2 01
Hyde and Company	10 00
Albany Post-office	4 96
J. H. Van Buskirk	60 00
John A. Heenan	1 50
American Express Company.....	8 45
National Express Company.....	4 61
United States Express Company	44 83
Charles R. Barnes (expenses).....	156 92
J. D. Shultz (expenses).....	40 81
Albany District Telegraph Company.....	1 70
Postal Telegraph Cable Company.....	13 25
Hudson River Telephone Company.....	29 14
Thomas J. Cowell	77 00
	<hr/>
	\$714 18

Grade crossing expenses.

W. and L. E. Gurley.....	\$19 15
E. C. McEntee (expenses).....	50 00
James E. Brazee (expenses).....	49 25
A. H. Sutermeister (expenses).....	25 00
J. B. Lyon Company.....	7 50
C. M. Ward	75 00
	<hr/>
	\$225 90

The Board adjourned.

ALBANY, JULY 19, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn.

Complaints.

C. W. Wentz, of Moreland station, Schuyler county, against the New York Central and Hudson River Railroad Company (Pennsylvania Division), as to the alleged abandonment of the station or stop at Moreland. Answer of company received. Ordered copy of answer sent complainant, and letter written company as shown by copy on file.

Abe Stein against the Long Island Railroad Company as to persons crossing over one track to the other to get trains at Arverne. Answer of company received. Ordered copy sent complainant and case closed.

Reports.

Reports of Inspector Brazee as to grade crossings on Long Island. Ordered filed.

Report of the inspector of his inspection of the Port Jervis, Monticello and New York Railroad. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from company, stating that the recommendations would be complied with.

Report of the inspector of his inspection of the Fonda, Johnstown and Gloversville Railroad. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations would be complied with.

Report of the inspector of his inspection of the Genesee and Wyoming Railroad. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations would be complied with.

Report of the inspector of his inspection of the Jamestown and Chautauqua Railway. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations would be complied with.

Report of the inspector of this inspection of the New York and Pennsylvania Railroad. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the matter would be at once called to the attention of its executive committee and "there will be no lack of disposition on their part to comply with the direction of the Board."

Report of the inspector of his inspection of the Kanona and Prattsburg Railroad. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the president of the company, stating that the report will be sent to its superintendent with a recommendation that the suggestions of the inspector be complied with.

Report of the inspector of his inspection of the Erie and Central New York Railroad. Copy sent company, with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations would be complied with.

Report of the inspector of his inspection of the Central New York and Western Railroad. Copy sent company with a letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that it is its intention to rebuild its entire line of railroad.

In the matter of the report of the inspector of his inspection of the Kings County Elevated Railway, a letter was received from the receiver of the company, stating that such of the recommendations as could be complied with prior to the turning over of the railway to the new company (now formed) would be, and that the report of the inspector would be called to the attention of the new company.

In the matter of the report of the inspector of his inspection of the Brooklyn Elevated Railroad, a letter was received from the company, stating that the recommendations would be complied with.

In the matter of the report of the inspector of his inspection of the Little Falls and Dolgeville Railroad, a letter was received from the receiver of the company. Letter written the receiver, as shown by copy on file.

In the matter of the verbal report of the inspector of his inspection of the Sea View Elevated Railroad, a letter was received from the company as to the repairs to be made.

Report of the superintendent of the grade crossing bureau as to an accident which occurred on the Long Island Railroad trestle through Jamaica Bay, June 12, 1899. Ordered filed.

Report of the inspector of an accident on the New York Central and Hudson River Railroad, at Utica station, May 13, 1899. Ordered copy sent the company, with a letter, making the alternative recommendation of the inspector that of the Board.

Report of the superintendent of the grade crossing bureau of a collision in Rensselaer between a Boston and Albany Railroad Company train and a New York Central and Hudson River Railroad Company train, June 7, 1899. Copy of the report sent the company, with a letter, making the recommendations of the superintendent those of this Board. Letter received from the company, stating that the recommendation will be complied with.

Crossings.

Complaint of the Long Island Railroad Company against the New York and Queens County Railway Company as to the crossing of said railroads at Borden avenue, Long Island City. Letter written company, as shown by copy on file, stating that the Board has already recommended that this crossing be protected by derailing switches and interlocked signals, and case closed.

In the matter of the application of the New York and Queens County Railway Company for a modification of the Board's recommendations as to precautions to be taken at crossings of its railway and the Long Island Railroad, at Main and Bridge streets, in the village of Flushing, and at Borden avenue, in Long Island City, a supplemental report was received from the electrical expert, withdrawing his recommendations as to the Main and Bridge streets crossings, but refusing to withdraw his recommendation as to the Borden avenue crossing. Copy of the supplemental report sent the company, with a letter, withdrawing the Board's requirements as to the Main and Bridge streets crossings, but insisting on its requirements as to the Borden avenue crossing. Letter received from the company, stating that it will comply with the requirements of the Board.

Report of the electrical expert as to his inspection of points where the railroads of the Long Island Electric Railway Company and the Long Island Railroad Company cross. Copy sent Long Island Electric Railway Company and Long Island Railroad Company, with letters, as shown by copies on file. Letter received from the Long Island Railroad Company, stating that the recommendations of the Board as to the keeping open by its towermen of the derailing switches would be complied with. Ordered filed.

Application of the Greenbush and Nassau Electric Railway, under section 68 of the Railroad Law, as to crossing the Boston and Albany Railroad, near the city of Rensselaer and at the village of Niverville. Ordered hearing set down for Monday, July 24, 1899, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

Application of the Greenbush and Nassau Electric Railway, under section 68 of the Railroad Law, as to crossing the New York Central and Hudson River Railroad, near Rensselaer. Ordered hearing set down for Monday, July 24, 1899, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

Complaint of the village of Clyde against the New York Central and Hudson River Railroad Company as to planking the Glasgow and Sodus streets crossings of said railroad. Answer of the company received, stating that directions have been given that the crossings be immediately placed in repair. Copy sent complainant, and case closed.

In the matter of the order of the Board that derailing switches should be installed at the River street crossing of the Ogdensburg Street Railway

and the Rome, Watertown and Ogdensburg Railroad, a letter was received from the attorney of the company, stating that the derailing switches have been placed in position and are in operation. Ordered that complainants be notified of this statement, and case closed.

Application of the Perry, Castle, Silver Springs and Pike Railway Company, under section 68 of the Railroad Law, for a determination of the manner in which its railroad shall cross the Erie Railroad on Main street, in the village of Castle, the Silver Lake Railway at or near Chaces station, and the Silver Lake Railway at a point westerly of Chaces station. Ordered hearing set-down for Thursday, August 3, 1899, 10.30 o'clock a. m., at Perry.

An application was received from the Long Island Railroad Company for permission to withdraw its petitions as to the abolishment, under section 62 of the Railroad Law, of the grade crossing known as the Depot road (case No. 82); of the grade crossing known as Tutties crossing (case No. 84); of the grade crossing known as the Depot crossing (case No. 78); of the grade crossing known as Smith's crossing (case No. 71); of the grade crossing known as Smith's crossing (case No. 72); and of the grade crossing known as Depot crossing (case No. 57) of its railroad. Ordered that said applications be allowed to be withdrawn.

In the matter of the determination of this Board, dated May 24, 1899, as to the closing of the Division avenue crossing of the Long Island Railroad, in the town of Brookhaven, Suffolk county, the Board determined that the new portion of the highway to be built shall be fifty feet in width.

Reports were received from the superintendent of the grade crossing bureau as to the proposed separation of grades at Chenango street, in Binghamton; as to the application of the town of Sheridan, under section 62 of the Railroad Law; as to the progress of the work, under section 62 of the Railroad Law, near Rector's crossing, town of Glendale, Schenectady county; as to the progress of the work, under section 62 of the Railroad Law, at the Crosby road crossing, in the town of Holland, Erie county; as to the progress of the work, under section 62 of the Railroad Law, at East avenue, Shortsville, Ontario county; as to the progress of the work, under section 62 of the Railroad Law, at Haskins crossing in the village of LeRoy; as to the progress of the work, under section 62 of the Railroad Law, in the town of Colden, at Gould's and other crossings. Ordered filed.

In the matter of the petition of the president and trustees of the village of Adams, Jefferson county, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Railroad street, in that village, and the Rome, Watertown and Ogdensburg Railroad, a letter was received from the petitioners, asking for leave to withdraw the petition. Ordered leave granted, and the matter closed.

In the matter of the application of the village of Celeron, under section 61 of the Railroad Law, as to the manner in which a new street called Dunham avenue shall be carried across the Erie Railroad and the Nypano Railroad, a determination, that the street should be carried over the railroads by means of a bridge, was made by this Board on June 14, 1899, a communication was received from the village, notifying the Board of its readiness to carry the street over the railroad by means of a bridge, and asking the Board to determine the height, length and material of the bridge or structure, and the length, character and grades of the approaches thereto. Ordered carried on file.

Hearings set.

Petition of the mayor and common council of the city of Cohoes as to the abolishment of the grade crossing of Ontario street and the railroad operated by the Delaware and Hudson Company. Ordered adjourned hearing set down for Albany, Friday, August 4, 1899, at 2 o'clock p. m.

Citizens' Improvement Association of Hollis, L. I., against the Long Island Electric Railway Company as to rates of fare. Ordered hearing

set down for Monday, July 24, 1890, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

Petition of the president and trustees of the village of Corinth, Saratoga county, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Hamilton avenue, in that village, and the Adirondack Railroad. Ordered hearing set down for Saturday, August 5th, 10 o'clock a. m., at the office of the Board in Albany.

Petition of the town board of the town of Schaghticoke, Rensselaer county, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of the Fitchburg Railroad. Ordered adjourned hearing set down for Saturday, August 5th, 10 o'clock a. m., at the office of the Board in Albany.

Orders.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of its railroad by a highway known as Lafayette place, in Woodmere, town of Hempstead, Nassau county. Determination that said crossing shall be closed and discontinued, the travel thereon to be diverted to other highways and crossings.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of its railroad by a highway known as Irving place in Woodmere, town of Hempstead, Nassau county. Denied.

In the matter of the petition of the town board of the town of Sheridan, Chautauqua county, under section 62 of the Railroad Law, for the abolishment of the Herricks and Red House crossings of the New York, Chicago and St. Louis Railway and the Western New York and Pennsylvania Railway (in which a hearing has been held by the Board), it appearing from correspondence and the report of the superintendent of the grade crossing bureau that the town board does not wish to press the matter of an undercrossing at the point in question, it was determined that the westerly, or so-called Red House crossing, be closed and discontinued as a public crossing, the travel thereon to be diverted to other highways and crossings in the vicinity, the Red House crossing to be made a private crossing.

The Board adjourned.

NEW YORK, JULY 24, 1890.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Central New York and Northern Railroad Company for a certificate under section 59 of the Railroad Law. Frank Sullivan Smith and W. W. Clark appeared for the applicant; George F. Brownell and C. W. Buchholz for the Erie Railroad Company, J. F. Schaperkötter for the Lehigh Valley Railroad Company, C. C. Paulding and E. Van Etten for the New York Central and Hudson River Railroad Company. After reading and filing affidavits and hearing arguments, the hearing was adjourned until Friday, July 28, 10 o'clock a. m., at the common council Chamber, City Hall, Binghamton.

Citizens' Improvement Association of Hollis, L. I., against the Long Island Electric Railway Company as to rates of fare. H. B. Salisbury, Rev. Richard D. Pope, W. S. Lapham and Max Bowsky for the complainants; William W. Gillen for the company. After hearing arguments the hearing was closed. Briefs are to be exchanged within twenty days and filed with the Board.

Application of the Greenbush and Nassau Electric Railway, under section 68 of the Railroad Law, as to crossing the Boston and Albany Railroad near the city of Rensselaer and at the village of Niverville. C. A. Collin for the applicant. The Boston and Albany Railroad Company appeared by letter and asked for an adjournment. Adjourned to a date to be hereafter fixed, without the taking of any evidence. Mr. Collin is to notify the Board when he desires a hearing.

Application of the Greenbush and Nassau Electric Railway, under section 68 of the Railroad Law, as to crossing the New York Central and Hudson River Railroad, near Rensselaer. C. A. Collin for the applicant; C. C. Paulding and E. Van Etten for the New York Central and Hudson River Railroad Company. After hearing arguments, the matter was adjourned to a date to be hereafter fixed. Mr. Collin is to notify the Board when he desires a hearing.

The hearing in the application of the Cossack and Greenville Traction Company for approval of an increase of its capital stock from \$200,000 to \$350,000, which was set for to-day, did not take place, no one appearing.

Applications.

Renewal of the application of the Lehigh and Lake Erie Railway Company for a certificate under section 59 of the Railroad Law. Ordered carried on file.

Application of the Third Avenue Railroad Company for approval of an increase of its capital stock from \$12,000,000 to \$40,000,000. Eugene Treadwell appeared for Hoadly, Lauterbach & Johnson and presented the application. Ordered filed.

Application of the Forty-second Street, Manhattanville and St. Nicholas Avenue Railway Company for approval of an increase of its capital stock from \$2,500,000 to \$7,500,000. Eugene Treadwell appeared for Hoadly, Lauterbach & Johnson and presented the application. Ordered filed.

Application of the Warren County Railway Company for a certificate under section 59 of the Railroad Law. Ordered carried on file.

Crossings.

Plans and specifications of the changes proposed at the Jamestown street and Fifth avenue crossings in the village of Randolph, Cattaraugus county (a determination in which has been made by this Board), with an estimate of the expense thereof, were submitted to the Board for its approval. Ordered such plans, specifications and estimate approved.

The Board adjourned.

BINGHAMTON, JULY 28, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent, owing to illness.

Hearings.

Adjourned hearing in the matter of the application of the Central New York and Northern Railroad Company, for a certificate under section 59 of the Railroad Law. Frank Sullivan Smith for the applicant; George F. Brownell and C. W. Buchholz for the Erie Railroad Company; J. F. Schaperkötter (by letter) for the Lehigh Valley Railroad Company; C. E. Paulding for the New York Central and Hudson River Railroad Company. After hearing evidence and arguments the application was granted.

Application of the Central New York and Western Railroad Company for approval of an increase of its capital stock from \$1,000,000 to \$2,000,000. Frank Sullivan Smith for the applicant. After hearing arguments and reading and filing affidavits the application was granted.

Application of the Penn Yan, Lake Keuka and Southern Railroad Company, for a certificate under section 59 of the Railroad Law. George F. Andrews and J. H. Roberts for the applicant; C. E. Paulding for the New York Central and Hudson River Railroad Company; E. C. English of Corning, N. Y., for the Penn Yan and Pennsylvania Railroad Company; W. C. Percy for the Bath and Hammondsport Railroad Company and the Lake Navigation Company. After hearing evidence and arguments the hearing was adjourned until Saturday, August 5, at 10 o'clock a. m., at the office of the Board in Albany.

Adjourned hearing in the matter of the petition of the town of Colesville, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the railroad operated by the Delaware and Hudson Company and the highway leading from Eugene Farrington's residence to the main road leading west from Sanitaria Springs. B. B. Badger, supervisor, for the town board; R. S. Parsons (of Perkins & Parsons) for J. W. Gayno and C. O. Reynolds, property owners; C. A. Wilbur for Eugene Farrington and other property owners; W. A. Tyler, property owner, for himself. After hearing evidence and arguments, the hearing was held open pending an inspection of the locality by a member of the Board.

Adjourned hearing in the matter of the petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossings of Chenango street and the Delaware, Lackawanna and Western Railroad (lessee of the New York, Lackawanna and Western Railroad), Erie Railroad and Albany and Susquehanna Railroad, leased to the Delaware and Hudson Company. Jerome De Witt, mayor, and Frank Stewart, corporation counsel, for the city; D. S. Richards for the Delaware, Lackawanna and Western Railroad Company (lessee of the New York, Lackawanna and Western Railroad); George F. Brownell and W. D. Painter for the Erie Railroad Company. After hearing arguments, the hearing was adjourned to a date to be hereafter fixed, pending a conference between the superintendent of the Grade Crossing Bureau of this Board, C. W. Buchholz, chief engineer of the Erie Railroad Company, James Archbald, chief engineer of the Delaware, Lackawanna and Western Railroad Company, and S. E. Monroe, city engineer, which conference is to take place on the 10th of August, a plan for the improvement, resulting from such conference, to be submitted to the Board, and a date for the adjourned hearing fixed.

Applications.

Application of the Nyack and Southern Railroad Company for a certificate under section 59 of the Railroad Law. Ordered carried on file.

Orders.

Application of the Central New York and Northern Railroad Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Central New York and Western Railroad Company for approval of an increase of capital stock from \$1,000,000 to \$2,000,000. Granted.

Application having been made to the Board in the city of Binghamton on this date, by the Syracuse, Binghamton and New York Railroad Company, for a modification of the determination of the Board dated June 28, 1899, as to the abolishment of the Bevier street crossing of said railroad, as to keeping the crossing open pending the improvement, it was ordered that the determination of the Board dated June 28, 1899, as to the abolishment of the Bevier street crossing of said railroad, and as to the abolishment

ment of the Bevier street crossing of the Albany and Susquehanna Railroad, operated by the Delaware and Hudson Company, be modified so that the crossings need not be kept open, or temporary crossings provided, during the construction of the undercrossings.

The Board adjourned.

PERRY, AUGUST 3, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent owing to illness.

Hearings.

Application of the Perry, Castile, Silver Springs and Pike Railway Company for a certificate under section 59 of the Railroad Law. Greenleaf S. Van Gorder for the applicant; George F. Brownell, J. H. Stevens and C. A. Brunn for the Erie Railroad Company in opposition; M. A. Lovejoy (Perry, N. Y.) for the Silver Lake Railway Company in opposition. After hearing evidence and arguments, a recess was taken until 1:30 p. m.

AFTER RECESS—1:30 P. M.

Hearings.

Application of the Pittsburg, Shawmut and Northern Railroad Company, under chapter 583 of the Laws of 1899, for consent to the issuance of a first mortgage for \$12,000,000. Lewis F. Wilson for the applicant. Ordered consent granted.

The Board resumed the hearing in the matter of the application of the Perry, Castile, Silver Springs and Pike Railway Company for a certificate under section 59 of the Railroad Law. Appearances as before recess. After hearing evidence and arguments further, the case of the applicant was closed, except that the applicant is to file within five days affidavits on the subject of public convenience and a necessity, and an affidavit from the engineers of the company as to the map. The applicant is to furnish copies of the affidavits to Mr. Lovejoy and Mr. Stevens, who will have ten days more to answer. Affidavits to be in by the 18th of August. The evidence of the Silver Lake Railway Company in opposition was then given by witnesses called by Mr. Lovejoy. The hearing was then closed except so far as the filing of affidavits in favor and answering affidavits in opposition to the application, as stated above, is concerned.

Application of the Perry, Castile, Silver Springs and Pike Railway Company, under section 68 of the Railroad Law, as to the manner in which its proposed railway shall cross the Erie Railroad on Main street, in the village of Castile, N. Y., and the Silver Lake Railway at or near Chace's station, and the Silver Lake Railway at a point westerly of Chace's station. It was determined by the applicant that all crossings should be either overhead or underneath, it to inform the Board in each case as to its desires between overhead and under crossings. It was agreed that the evidence as to the crossings brought out in the hearing of the application of the company under section 59 of the Railroad Law, should be considered evidence in this application.

Orders.

Application of the Pittsburg, Shawmut and Northern Railroad Company for consent to the issue of a mortgage of \$12,000,000. Granted.

The Board adjourned.

ALBANY, AUGUST 4, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent owing to illness.

Hearings.

Application of the Long Island Railroad Company, under chapter 583 of the Laws of 1899, for consent to the issue of a unified mortgage, dated March 1, 1899, for \$45,000,000. Consent granted.

Petition of the Greenwich and Schuylerville Electric Railroad, under chapter 597 of the Laws of 1899, praying for the revocation by this Board of the certificate granted to the Hudson River and Washington County Midland Railroad Company, under section 59 of the Railroad Law. Thomas O'Connor for the applicant. The applicant asked for an adjournment to a date to be hereafter fixed, not earlier than October. Adjourned to a date to be hereafter fixed.

Application of the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, under section 34 of the Railroad Law, for the consent of the Board to the discontinuance of the station on the West Shore Railroad known as "Utica." Ira A. Place for the applicant; W. E. Lewis, a citizen of Utica, in favor of the application; John L. Mahar, for the Chamber of Commerce of Utica, in favor of the application (Mr. Mahar suggested that the station at East Utica be changed to Seymour street); Chapman C. Johnson, a citizen of Utica, in favor of the application. After hearing arguments the hearing was closed.

Petition of the mayor and common council of the city of Johnstown, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of West Main street and the Fonda, Johnstown and Gloversville Railroad, in said city, it being proposed to carry said street over the railroad by means of a bridge. Borden D. Smith for the applicant; Philip Keck for property owners and citizens, in favor of the application; A. D. L. Baker for the Fonda, Johnstown and Gloversville Railroad, in opposition. After hearing evidence and arguments a recess was taken until 2 p. m.

AFTER RECESS—2 P. M.

The hearing in the matter of the petition of the mayor and common council of the city of Johnstown, under section 62 of the Railroad Law, was resumed. Appearances as before recess. After hearing evidence further the case for the applicant was closed, except that it reserves the right to call A. H. Sutermeister, superintendent of the Grade Crossing Bureau in this department. The opposition not being ready to present its case, the hearing was adjourned until Wednesday, October 4, 1899, at 11 o'clock a. m., at the office of the Board in Albany.

Adjourned hearing in the matter of the petition of the mayor and common council of the city of Cohoes, under section 62 of the Railroad Law, for the abolishment of the grade crossing of Ontario street (on Van Schaick's Island, Cohoes, near the bridge over the Hudson river), and the railroad operated by the Delaware and Hudson Company. J. H. Mitchell, mayor, and Henry A. Strong, city attorney, for the applicant; E. L. Rowe for the Rensselaer Manufacturing Company; Abby Conniff for herself as a property owner; C. D. Hammond for the Delaware and Hudson Company. After hearing arguments as to the width of the viaduct which is proposed to carry the street over the railroad, the hearing was held open pending the making of a new plan of the proposed viaduct.

Application of the Elmira and Seneca Lake Railway Company, under chapter 583 of the Laws of 1899 (laid before the Board for the first time to-day), for consent to the issue of a mortgage for \$300,000. Boyd McDowell for the applicant. Ordered granted.

Crossings.

Application of the Elmira and Seneca Lake Railway Company, under section 68 of the Railroad Law, for a determination of the manner in which its railroad shall cross the Northern Central Railway, in the village of Montour Falls. Ordered filed, and electrical expert ordered to make an inspection and report.

Orders.

Application of the Long Island Railroad Company, under chapter 583 of the Laws of 1899, for consent to the issue of a unified mortgage, dated March 1, 1899, for \$45,000,000. Granted.

Application of the Elmira and Seneca Lake Railway Company, under chapter 583 of the Laws of 1899, for consent to the issue of a mortgage for \$300,000. Granted.

The Board adjourned.

ALBANY, AUGUST 5, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent owing to illness.

Hearings.

Adjourned hearing in the matter of the petition of the town board of the town of Schaghticoke, Rensselaer county, under section 62 of the Railroad Law, as to carrying the east or main highway crossing of the Fitchburg Railroad, at Melrose, under said railroad. F. E. McDuffy for the town board. T. F. Hamilton for the Fitchburg Railroad Company. After argument, the hearing was held open to allow the commissioners to inspect the locality.

Petition of the president and trustees of the village of Corinth, Saratoga county, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Hamilton avenue, in said village, and the Adirondack Railway, operated by the Delaware and Hudson Company, it being proposed to carry Hamilton avenue under the railroad at a point about 500 feet southerly from the present crossing. T. J. Dillon for the village, C. D. Hammond for the railroad company. After hearing arguments, the attorney for the village asked that it might withdraw its petition, and the matter was held open until such time as the village desires to call it up.

Application of the Cocksackie and Greenville Traction Company for approval of an increase of its capital stock from \$200,000 to \$350,000. N. A. Calkins and George C. Spencer for the application. Ordered application granted.

Adjourned hearing in the matter of the application of the Penn Yan, Lake Keuka and Southern Railroad Company for a certificate under section 59 of the Railroad Law. George F. Andrews and J. H. Roberts for the applicant. C. E. Paulding for the New York Central and Hudson River Railroad Company. W. C. Percy for the Bath and Hammondsport Railroad Company. By agreement of counsel, the matter was adjourned until August 25, 10 o'clock a. m., at the office of the Board in Albany.

Applications.

Application of the Warren County Railway for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Albany, Thursday, August 24, at 10 o'clock a. m., and notice advertised.

Orders.

Application of the Cossack and Greenville Traction Company for approval of an increase of its capital stock from \$200,000 to \$350,000. Granted.

The Board adjourned.

ALBANY, AUGUST 16, 1890.

The Board met pursuant to adjournment. Present, Commissioners Baker and Dunn. Commissioner Cole absent, attending Railroad Commission Convention at Denver. The minutes of July 18, 19, 24, 28 and August 3, 4 and 5, were read and approved.

Complaints.

Elizabeth S. Pease against the Troy City Railway Company, as to condition of a bridge on Ontario street in the city of Cohoes, over which cars of the Troy City Railway Company are operated. Report of the electrical expert that the recommendations of the Board in regard to strengthening the bridge, and the operation of cars over it, pending construction of a new bridge, have been complied with, and that a contract has been executed by the city of Cohoes calling for the erection of a new bridge at the point in question. Closed.

Residents of Vernon, Oneida county, against the West Shore Railroad, New York Central and Hudson River Railroad Company lessee, as to lack of train service. Copy sent company. Answer of company received. Copy answer of company sent complainants, with letter, as shown by copy on file.

C. W. Wentz, Moreland station, Schuyler county, against the New York Central and Hudson River Railroad Company (Pennsylvania division), as to the alleged abandonment of the station or stop at Moreland. Reply of complainant to answer of company received. Letters from other persons joining in the complaint were also received. Ordered copies of the reply and letters from other persons joining in the complaint be sent to the company, with a letter from the Board stating that in ceasing the stoppage of trains at this station the company has violated section 34 of the Railroad Law, and that the Board directs that the stop be re-established.

Lewis D. Browning of Scio, against the Erie Railroad Company, relative to a farm crossing. Copy sent company.

F. W. Sprague of Halesboro, St. Lawrence county, against the New York Central and Hudson River Railroad Company (R. W. & O. division), as to the discontinuance of the agent at the Halesboro station. Report of the inspector received. Ordered complaint dismissed.

Jacob R. Shipherd against the Long Island Railroad Company, as to noise made by engines and trains. Copy sent company. Answer of company received. Copy sent complainant. Reply of complainant received. Letter received from complainant stating that he desires to file a further statement. Complainant notified that he may file such statement.

Ireland Brothers of Johnstown, N. Y., against the New York Central and Hudson River Railroad Company, as to discrimination in the acceptance of cases of goods for shipment. Copy sent company. Letter received from complainant stating that the matter had been adjusted in a satisfactory manner. Answer of company received stating that instructions have been given the agent at Fonda to accept the shipments relative to which complaint was made. Closed.

L. L. Johnson against the Hudson Light and Power and Railroad Company, as to grade crossing of a highway at North Chatham. Answer of company received, stating that the crossing is being built by the Greenbush and Nassau Electric Railway Company, which is a street surface

railroad corporation. Copy of answer sent complainant, with letter as shown by copy on file. Report of the Superintendent of the Grade Crossing Bureau as to the crossing. Ordered letter written complainant, as shown by copy on file, and case closed.

Taxpayers' Non-partisan Association of the Third ward of the Borough of Queens. Report of the electrical expert. The recommendations of the electrical expert were made the recommendations of the Board, and the company notified. Letter received from the company in relation to the matter. Ordered filed. Closed.

Lewis Manz against Rochester and Irondequoit Railway Company, as to alleged dangerous condition of an engine in use on that railroad. Reply of complainant to answer of company, and report of the electrical expert of his investigation of the matter received. The recommendation of the electrical expert that the badly worn brake shoes be replaced, was made the recommendation of the Board, and the company notified. Case closed.

John A. Cipperly against the Troy City Railway Company, as to the condition of its Albia branch. Report of the electrical expert, of his investigation of the Albia branch received. Ordered recommendation of the electrical expert be made the recommendation of the Board, and the company and complainant notified. Closed.

Delaware and Hudson Company against the Troy City Railway Company, as to escape of electricity on railroad bridge from Green Island to Troy. Report of electrical expert received, stating that the cause of complaint has been removed. Closed.

S. F. Smith of Clinton Corners, against the Poughkeepsie and Eastern Railroad Company, as to the setting of fires. Copy sent company. Answer of company received, stating that the screens to the engines had been repaired and renewed. Copy sent complainant. Closed.

Gilbert M. Vandervort against the Lehigh Valley Railroad Company, as to condition of the railroad fence along his land near the village of Manchester. Further complaint received from complainant, and case reopened. Copy of second complaint sent to company. Answer of company received, stating that the cause of complaint had been removed, except so far as cattle guards at the farm crossing was concerned. Copy sent complainant. Letter received from attorney for complainant, and answer sent under date of August 11, as shown by copy on file. Case again closed.

George M. Nichols against the Long Island Railroad Company, relative to collection of excess mileage coupon tickets. Copy sent company. Answer of company received, stating, "We have adopted rules now, however, that will prevent similar complaint to that made by Mr. Nichols in the future." Copy of answer sent complainant. Letter received from complainant asking as to return of excess mileage already collected. Letter sent Mr. Nichols, as shown by copy on file, and case closed.

Oscar K. Lyle against the Nassau Electric Railroad Company, as to discontinuance of car service on Seventh avenue. Copy sent company. Answer of company received. Copy sent complainant. Reply of complainant received. Ordered that the electrical expert make an investigation and report.

M. J. Robertson of Etna, against the Lehigh Valley Railroad Company, as to the condition of the company's fences along his land. Copy sent company. Closed, and letter written complainant, as shown by copy on file.

In the matter of the complaint of H. W. Pettibone of Freeville, against the Lehigh Valley Railroad Company, as to the condition of its fences along his land, which case was closed April 26, 1899, a letter was received from complainant, stating that the fences have not yet been repaired. Ordered filed. Closed, and letter written complainant, as shown by copy on file.

W. H. Pierson of Etna, Tompkins county, against the Lehigh Valley Railroad Company, as to the condition of its fences along his farm. Copy sent company. Answer of company received. Closed, and letter written complainant, as shown by copy on file.

Lewis M. Selkirk against the New York Central and Hudson River Railroad Company, as to the grades of private roads on his farm, crossing the railroad. Letter received from complainant, stating that the roads had been satisfactorily changed. Closed.

F. K. Baxter against the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, as to the station on the latter railroad at Utica. Dismissed.

Applications.

Application of the Long Island Railroad Company under section 34 of the Railroad Law, as to the abandonment of its Bedford Avenue station. This application was made in error, a previous one having already been granted. Matter closed.

Application of the Buffalo, Attica and Arcade Railroad Company for the approval of highway crossing signs. Ordered filed.

Application of the Coxsackie and Greenville Traction Company for consent to the issue of a mortgage for \$350,000. Ordered hearing set down for Thursday, August 24, at 11:30, at the office of the Board in Albany.

Application of the Greenwich and Schuylerville Electric Railroad for consent to the issue of a mortgage for \$500,000 (laid before the Board for the first time to-day). J. A. Powers appeared for the applicant. Hearing adjourned until Wednesday, August 24, at 10 a. m.

Application of The Albany Helderberg and Schoharie Electric Railway for consent to the issue of a mortgage for \$1,200,000 (laid before the Board for first time to-day). W. H. Van Steenberg for the applicant. Granted.

Application of the Port Chester Street Railway Company for approval of an increase of capital stock from \$100,000 to \$300,000. Ordered hearing set down for Friday, August 25, at 10 o'clock a. m., at the office of the Board in Albany.

Application of The Massena Electric Street Railway Company for approval of an increase of capital stock from \$100,000 to \$125,000 (laid before Board for first time to-day). Granted.

Reports.

Reports of the electrical expert as to accidents on the lines of the Third Avenue Railroad Company, New York city, from July 19 to August 7, 1899, inclusive. Ordered filed.

Reports of the electrical expert as to accidents occurring on the Brooklyn Heights Railroad. Ordered filed and letter written company as shown by copy on file.

In the matter of the report of the inspector, of an accident which occurred on the New York Central and Hudson River Railroad at Utica station, May 13, 1899, the recommendation in which was transmitted to the company, a letter was received from the company, stating that measures had been taken for putting in an auxiliary signal at Utica, in accordance with the alternative recommendation of the inspector.

Report of the inspector, of his inspection of the Ogdensburg and Lake Champlain Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector, of his inspection of the Buffalo Creek Railroad. Copy sent company.

Report of the inspector, of his inspection of the Buffalo and Susquehanna Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from company, stating that the recommendations would be complied with.

Report of the inspector, of his inspection of the Lehigh and New England Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from company, stating that the recommendations would be complied with.

Report of the inspector, of his inspection of the Lehigh and Hudson River Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from company, stating that the recommendations would be complied with.

Report of the inspector, of his inspection of the United States and Canada Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from company, stating that the recommendations would be complied with.

Report of the inspector of his inspection of the Chateaugay Railroad. Report sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from company stating that the recommendations would be complied with.

Report of the inspector, of his inspection of the Lake Champlain and Moriah Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector, of his inspection of the Keeseville, Ausable Chasm and Lake Champlain Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector, of his inspection of the Kinderhook and Hudson Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from company stating that the recommendations would be complied with.

Report of the inspector, of his inspection of the Unadilla Valley Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Schoharie Valley Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Middleburgh and Schoharie Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Cooperstown and Charlotte Valley Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector, of his inspection of that portion of the Pennsylvania division of the New York Central and Hudson River Railroad Company, within this state. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Crossings.

Application of the Delaware, Lackawanna and Western Railroad Company, under section 36 of the Railroad Law, as to approval of interlocking switch and signal apparatus and the discontinuance of the full stop and crossing on signal at points where its railroad crosses the Erie Railroad, west of Painted Post, and where its railroad crosses the Erie Railroad east of Mount Morris. A report as to these crossings was received from the Superintendent of the Grade Crossing Bureau. Ordered carried on file.

In the matter of the petition of the president and trustees of the village of Chaumont, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of the Rome, Watertown and Ogdensburg Railroad (lessee New York Central and Hudson River Railroad Company) and a street known as Phelps street in that village, the village not proceeding in the matter, it was ordered closed.

Application of the Coxsackie and Greenville Traction Company, under section 68 of the Railroad Law, for a determination as to the manner in which its railroad shall cross the West Shore Railroad at New street in the village of Coxsackie. Ordered hearing set down for Thursday, August 24, 1899, at 11:30 o'clock a. m., at the office of the Board in Albany.

The Superintendent of the Grade Crossing Bureau was ordered to make an inspection and report.

Petition of the president and trustees of the village of Attica, under section 62 of the Railroad Law, as to the construction of an underground crossing of the Erie Railroad, on High and West Main streets in said village. Ordered that the Superintendent of the Grade Crossing Bureau make an inspection and report.

Application of the town board of the town of Brighton, Monroe county, under section 61 of the Railroad Law, for a determination as to the manner in which a highway, being a continuation of the Clover street road, shall be carried across the New York Central and Hudson River Railroad in said town. Ordered carried on file.

Petition of the town board of the town of Smithtown, Suffolk county, under section 62 of the Railroad Law, as to alteration of highway leading from Smithtown to Sunk Meadow, to avoid crossings of the Long Island Railroad. Ordered carried on file.

An application was received from the Long Island Railroad Company for permission to withdraw its petition as to the abolishment, under section 62 of the Railroad Law, of the grade crossing known as "Davis" crossing of its railroad it being a private crossing (case No. 46). Ordered that said application be allowed to be withdrawn.

Petition of the town board of the town of Southampton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Butter lane highway and the Long Island Railroad, it being proposed to carry the highway under the railroad. Ordered carried on file.

James P. Keating, Commissioner of Highways of New York city, against the New York, New Haven and Hartford Railroad Company, as to alleged dangerous crossing of the railroad by Main street, Bay Chester. Copy sent the company. Answer of the company received. Ordered carried on file.

In the matter of the petition of James P. Keating, Commissioner of Highways of the city of New York, dated September 13, 1898, as to carrying certain streets across the Manhattan Beach division of the Long Island Railroad, and over the Brooklyn and Brighton Beach Railroad, and over the Long Island Railroad, the application not being in proper form (of which applicant was notified September 17, 1898, he having made no reply), the case was ordered closed.

In the matter of the application of the town of Poland, Chautauqua county, under section 61 of the Railroad Law, as to the manner in which a highway shall be carried across the Erie Railroad and the Nypano Railroad, a determination in which that the street should be carried over the railroad by means of a bridge, was made by this Board on May 15, 1899, a communication was received from the town board, notifying this Board of the readiness of the town board to carry the street over the railroad by means of a bridge, and asking this Board to determine the height, length and material of the bridge or structure, and the length, character and grades of the approaches thereto. Ordered carried on file.

Report of the Superintendent of the Grade Crossing Bureau, as to the work at the overhead bridge of the Western New York and Pennsylvania Railway, in the town of Holland, carrying the Crosby road over the railway. Ordered filed.

Report of the Superintendent of the Grade Crossing Bureau as to conference held in New York city, August 15, between the chief engineer of the Erie Railroad Company, the chief engineer of the Delaware, Lackawanna and Western Railroad Company, S. E. Monroe, city engineer of Binghamton, and himself, representing this Board, in the matter of the proposed change of the grade crossing of Chenango street in the city of Binghamton, by the railroads named. Ordered carried on file.

Report of the Superintendent of the Grade Crossing Bureau, as to the work at the Gould, Hedges, Underhill and Norcross crossings, under section 62 of the Railroad Law, in the town of Colden, Erie county. The recommendation of the Superintendent as to culvert was adopted by the

Board, and letter ordered sent the company and Mr. John P. Underhill, a property owner, to that effect.

In the matter of carrying Bridge street, St. Johnsville, over the New York Central and Hudson River Railroad, under section 62 of the Railroad Law, a contract in duplicate was received from the company, proposed to be entered into between it and Dwyer and Huntington, for the substructure. Ordered letter written company, stating that an iron pipe culvert must be constructed under the fill between the Mohawk river and the southerly abutment of the bridge as agreed, and proposed contract between Dwyer and Huntington and the company (copy on file) approved.

Orders.

In the matter of the determination of this Board, under section 62 of the Railroad Law, in the application of the city of Binghamton, in relation to the crossings of the Syracuse, Binghamton and New York Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company), the determination in which was that the street should be carried under the railroads, the Board further determined that the undercrossing shall be 30 feet in width under the coping, and the clearance from under side of bridge to bed of highway shall be 12½ feet.

Petition of the town board of the town of Newstead, and village of Akron, and of the president and board of trustees of the village of Akron, under section 62 of the Railroad Law, as to a change in the manner in which Buell street crosses the New York Central and Hudson River Railroad. Determination that the street shall be carried over the railroad by means of a substantial wooden bridge, with bents resting on masonry foundations.

Application of the New York Central and Hudson River Railroad Company, under section 34 of the Railroad Law, as to the discontinuance of the station known as Utica, on the West Shore Railroad, leased to the applicant. Granted.

Complaint of Frank K. Baxter against the New York Central and Hudson River Railroad Company, as to condition of West Shore Railroad station building at station known as "Utica." Dismissed.

Application of the Third Avenue Railroad Company for approval of an increase of its capital stock from \$12,000,000 to \$40,000,000. Granted.

Application of the Forty-second Street, Manhattanville and St. Nicholas Avenue Railway Company for approval of an increase of its capital stock from \$2,500,000 to \$7,500,000. Granted.

Application of the city of Cohoes, under section 62 of the Railroad Law, as to the High street crossing of the New York Central and Hudson River Railroad. It appearing that High street is not lawfully constructed across the railroad, after correspondence with the city and the company as to the result of a conference between them, which was agreed upon at a hearing in the matter November 10, 1898, the matter was ordered closed.

Application of The Massena Electric Street Railway Company for approval of an increase of its capital stock from \$100,000 to \$125,000. Granted.

Application of The Albany, Helderberg and Schoharie Electric Railway for consent to the issue of a mortgage for \$1,200,000. Granted.

Application of the Long Island Railroad Company, under section 34 of the Railroad Law, as to the abandonment of its Bedford Avenue station. Ordered discontinued, a previous application having already been granted. The Board adjourned.

ALBANY, AUGUST 24, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of August 16 were read and approved.

Hearings.

Application of The Albany, Helderberg and Schoharie Electric Railway Company for approval of its proposed change of name to Albany and Schoharie Valley Railroad Company, and designation of newspapers in which notice of the presentation of petition to the court for change of name shall be published. (This application was laid before the Board for the first time to-day). Frost & Warner for the applicant. Ordered application approved, and the Schoharie County Democrat and Albany Journal designated as the newspapers in which the notice shall be published.

Application of the Schenectady Railway Company, under section 68 of the Railroad Law, for a determination of the Board as to how its railroad shall cross a siding of the New York Central and Hudson River Railroad Company leading into the Westinghouse Agricultural Works on Rotterdam street, in the city of Schenectady. (This application was laid before the Board for the first time to-day). Howard C. Levis appeared for the applicant; E. Van Etten and F. A. Harrington for the New York Central and Hudson River Railroad Company. Ordered application granted, subject to condition that each car shall come to a full stop before crossing, the conductor going ahead to signal it across, and subject to the filing with the Board of a copy of the agreement between the New York Central and Hudson River Railroad Company and the applicant as to the manner of crossing.

Adjourned hearing in the matter of the application of the Greenwich and Schuylerville Electric Railroad for consent to the issue of a mortgage for \$500,000. J. A. Powers appeared for the applicant. Granted.

Re-application of the Lehigh and Lake Erie Railroad Company for a certificate under section 59 of the Railroad Law. Bissell, Carey & Cooke (Wilson S. Bissell appearing) and Tracy, Boardman & Platt (F. H. Platt appearing) for the applicant. C. C. Paulding for the New York Central and Hudson River Railroad Company in opposition, John S. Rockwell for the Buffalo, Rochester and Pittsburgh Railway Company in opposition. After the reading and filing of affidavits and the hearing of arguments, the hearing was adjourned until Wednesday, September 13, 1899, 11:30 a. m., at the office of the Board in Albany.

Application of the Cossackie and Greenville Traction Company, under section 68 of the Railroad Law, for a determination of the manner in which its railroad shall cross the West Shore Railroad at New street, in the village of Cossackie. N. A. Calkins and George C. Spencer for the applicant. C. C. Paulding for the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad. After hearing evidence and arguments, the hearing was closed.

Application of the Cossackie and Greenville Traction Company for consent to the issue of a mortgage for \$350,000. N. A. Calkins for the applicant. After reading and filing the papers and hearing arguments, the hearing was closed.

The hearing in the matter of the application of the Port Chester Street Railway Company for approval of an increase of its capital stock from \$100,000 to \$300,000, which was to have taken place to-day, was postponed by request of the applicant and the hearing set for Tuesday, September 5, 1899, 11:30 o'clock a. m., at the office of the Board in Albany.

Complaints.

M. N. Stevens, of Lowville, against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg division) as to lack of toilet conveniences at its station in Lowville. Copy sent company.

Lewis D. Browning, of Scio, against the Erie Railroad Company, relative to a farm crossing. The answers of the company, dated August 19

and August 21, received. Copy of answer dated August 21 sent complainant, and case closed.

C. J. Howden against the Western New York and Pennsylvania Railway Company as to its station at Fillmore. Closed.

Reports.

Report of the inspector of his inspection of the Catskill and Tannersville Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Lebanon Springs Railroad. Copy sent receiver of the company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from the receiver of the company, stating that he would communicate the recommendations to the purchaser of the railroad at its recent sale.

In the matter of the report of the inspector of his inspection of the Cooperstown and Charlotte Valley Railroad, a letter was received from the company, stating that the recommendations of the Board would be complied with.

In the matter of the report of the inspector of his inspection of the Schoharie Valley Railroad, a letter was received from the company, stating that the recommendations of the Board would be complied with.

In the matter of the report of the inspector of his inspection of the Pennsylvania division, in this state, of the New York Central and Hudson River Railroad Company, E. Van Etten, general superintendent of the company, appeared before the Board as to the recommendation relative to moving the derails at Corning. The matter was referred to Commissioner Baker.

In the matter of the report of the inspector of his inspection of the Port Jervis, Monticello and New York Railroad, a letter was received from the company, stating what improvements had been made. Ordered that the inspector again inspect this railroad.

Report of the superintendent of the grade crossing bureau as to grade crossing accident which occurred at Canastota, on the New York Central and Hudson River Railroad, Main street crossing, August 14, 1899. Ordered filed.

Crossings.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of its railroad by a highway running in an easterly and westerly direction near its Pavillion Centre station, it being proposed to carry the highway under the railroad. Ordered filed.

Application of the Erie Railroad Company, under section 36 of the Railroad Law, as to approval of an interlocking switch and signal apparatus and the discontinuance of the full stop and crossing on signal at a point where its railroad and the Delaware, Lackawanna and Western Railroad cross at grade at Owego. Ordered granted.

James P. Keating, commissioner of highways of New York city, against the New York, New Haven and Hartford Railroad Company, as to alleged dangerous crossing of the railroad by Main street, Baychester. Ordered copy of answer of company sent complainant, and case closed.

In the matter of the petition of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to an alteration in the location of a highway known as the Blue Pond road, in the town of Harrietstown, Franklin county, a determination in which was made by this Board on October 13, 1898, so that it shall not cross the railroad at two points, proposed contracts were received from the company, proposed to be entered into between Messrs. Henry Finnegan and P. H. Cary and the New York Central and Hudson River Railroad Com-

pany for the construction of a piece of highway about 1,200 feet long, so that the two crossings will be done away with. Ordered proposed contracts approved.

In the matter of the determination of this Board, dated January 24, 1899, under section 62 of the Railroad Law, as to the Livingston avenue and Spencer street crossings of the New York Central and Hudson River Railroad, in the city of Albany, a contract was received from the company between itself and the Union Bridge Company (by C. MacDonald and A. Onderdonk), for the superstructures; there was also received from the company a proposed contract between itself and Dwyer & Huntington for the substructural work as to these crossings. Ordered said contract and proposed contract approved, on condition that the State will not have to bear more than one-quarter of an expense of \$75,000, exclusive of land damages.

Orders.

Application of the Albany, Helderberg and Schoharie Electric Railway Company for approval of petition for change of name and designation of newspapers in which to publish notice. Ordered application granted and the Schoharie County Democrat and Albany Journal designated.

Application of the Schenectady Railway Company, under section 68 of the Railroad Law, as to crossing a siding of the New York Central and Hudson River Railroad leading into the Westinghouse Agricultural Works, in the city of Schenectady. Ordered granted on condition that all cars shall come to a full stop before crossing and the conductors shall go ahead to signal them across, the order not to be issued until there is filed with the Board a copy of the agreement between the street railroad company and the steam railroad company as to the manner of crossing.

Application of the Greenwich and Schuylerville Electric Railroad for consent to the issue of a mortgage for \$500,000. Granted.

Application of the Erie Railroad Company, under section 36 of the Railroad Law, for approval of an interlocking switch and signal apparatus and the discontinuance of the full stop and crossing on signal at a point where its railroad and the Delaware, Lackawanna and Western Railroad cross at grade at Owego. Granted.

Application of the Perry, Castle, Silver Springs and Pike Railway Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Nyack and Southern Railroad Company for a certificate under section 59 of the Railroad Law. Denied for reason shown by memorandum on file.

Application of the Coxsackie and Greenville Traction Company for consent to the issue of a mortgage for \$350,000. Granted.

Application of the Coxsackie and Greenville Traction Company, under section 68 of the Railroad Law, as to crossing the West Shore Railroad at New street, in the village of Coxsackie. Determination that the applicant's railroad shall cross underneath the West Shore Railroad.

Complaint of the Citizens' Improvement Association of Hollis, L. I., against the Long Island Electric Railroad Company. Dismissed, as shown by memorandum on file.

Application of the Delaware, Lackawanna and Western Railroad Company, under section 36 of the Railroad Law, as to approval of interlocking switch and signal apparatus and the discontinuance of the full stop and crossing on signal at points where its railroad crosses the Erie Railroad west of Painted Post, and where its railroad crosses the Erie Railroad east of Mount Morris. Ordered that letters written company that if it complies with the recommendations made in the report of the superintendent of the grade crossing bureau, which recommendations have been made those of the Board, the application will be granted. The "reasonably short time" spoken of in the report of the superintendent of the grade crossing bureau, as to each of these crossings during which time the trains need not stop pending compliance with his recommendations, being limited to three months time.

Petition of the town board of the town of Schaghticoke, Rensselaer county, under section 62 of the Railroad Law, relative to the east or main crossing of the Fitchburg Railroad at Melrose. Determination that the crossing shall be carried under the railroad, as shown by "office original" determination on file.

The following resolution was adopted:

Resolved, That on and after the first day of August, 1899, the salary of Edward C. McEntee, assistant secretary, be \$3,600 per annum; and that the salary of John J. Farley and William M. Davis, stenographers, be \$1,200 each per annum.

The Board adjourned.

ALBANY, AUGUST 25, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Staten Island Rapid Transit Railway Company for consent to the issue of a second mortgage for \$2,500,000. (Laid before the Board for the first time to-day.) Felix M. Gernsheim for the applicant. The hearing was adjourned until Tuesday, August 29, 1899, 9 a. m., at the Fifth Avenue Hotel, New York city.

Applicants of the Dunkirk and Point Gratiot Traction Company, under section 59 of the Railroad Law, for a certificate that public convenience and a necessity require the construction of the applicant's railroad. L. F. Stearns for the applicant; J. H. Stevens, for the Erie Railroad Company, in opposition. After reading and filing affidavits and after hearing arguments, the hearing was adjourned until Tuesday, September 5, 1899, 10 o'clock a. m., at the office of the Board in Albany, and if an agreement is not reached as to a crossing of the Erie Railroad by the proposed railroad by that time, by agreement of counsel at the hearing it shall go over until Thursday, September 14, 1899, 10 o'clock a. m., at the office of the Board in Albany.

Applications.

Application of the Albany and Hudson Railway and Power Company for a certificate, under section 59 of the Railroad Law, that public convenience and a necessity require the construction of its railroad. Ordered hearing set for Thursday, September 14, 1899, 11.30 o'clock a. m., at the office of the Board in Albany.

Hearings set.

In the application by railroad companies pending before the Board for approval of highway crossing signs, hearings were ordered set for Thursday, September 14, 1899, at 10 o'clock a. m., at the office of the Board in Albany.

Resolutions.

The following resolutions were adopted:

Resolved: That William McNeilly be designated as marshal of the Board, to take effect September 1st.

Resolved: That Charles E. Gantz, now marshal, be assigned to duty as general clerk, to take effect September 1st, and that on and after September 1st his salary be \$1,800 per annum.

Bills.

The following bills were approved:

General expenses.

Phillip J. Henzel.....	\$11 70
Felix H. McCann.....	2 97
Brandow Printing Company.....	376 91
Frank M. Baker (expenses).....	81 20
Harry W. Riggs.....	6 00
C. R. Barnes (expenses).....	130 72
Dudley J. Fagan.....	22 50
Hudson River Telephone Co.....	23 43
Postal Telegraph Cable Co.....	6 36
Erie Railway History.....	15 00
Great Bear Spring Co.....	2 10
George W. Dunn (expenses).....	80 00
Edward Shaughnessy	23 00
Western Union Telegraph Co.....	6 14
	<hr/>
	\$788 08

Grade crossing expenses.

J. B. Lyon Company.....	\$6 00
A. H. Sutermeister (expenses).....	37 26
E. C. McEntee (expenses).....	35 00
Frank M. Baker (expenses).....	75 00
James E. Brazee (expenses).....	31 60
Geo. W. Dunn (expenses).....	40 00
John S. Kenyon (expenses).....	15 76
	<hr/>
	\$240 62

The Board adjourned.

NEW YORK, AUGUST 29, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Staten Island Rapid Transit Railway Company for consent to the issue of a second mortgage for \$2,500,000. Felix M. Gernshelm for the applicant. Granted.

The Board was present as tests of street car brakes conducted under its auspices.

Orders.

Application of the Staten Island Rapid Transit Railway Company for consent to the issue of a second mortgage for \$2,500,000. Granted.

The Board adjourned.

NEW YORK, AUGUST 31, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The Board spent all of yesterday and all this day at tests of street car brakes.

The Board adjourned.

ALBANY, SEPTEMBER 5, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of August 24, 25, 29 and 31 were read and approved.

Hearings.

Application of the Port Chester Street Railway Company for approval of an increase of its capital stock from \$100,000 to \$300,000. Frederick W. Sherman for the applicant. After the reading and filing of affidavits and hearing counsel, the hearing was closed.

Application of the Schoharie Valley Railroad Company for consent to the issue of a mortgage for \$40,000 for the refunding of an outstanding mortgage for \$40,000. Stephen L. Mayham for the applicant. Granted.

The hearing in the matter of the application of the Dunkirk and Point Gratiot Traction Company, for a certificate under section 59 of the Railroad Law, which was to have taken place to-day or September 14, was adjourned until Thursday, September 14, 1899, 10 o'clock a. m., at the office of the Board in Albany.

The hearing in the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to carrying Avenue B across the New York Central and Hudson River Railroad, which was to have taken place to-day, was adjourned, by consent of counsel, to Wednesday, October 4, 1899, 10 o'clock a. m., at the office of the Board in Albany.

The hearing in the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to carrying Avenue B across the New York Central and Hudson River Railroad, which was to have taken place to-day, was adjourned, by consent of counsel, to Wednesday, October 4, 1899, 10 o'clock a. m., at the office of the Board in Albany.

Complaints.

In the matter of the complaint of Ogden & Clark, of Utica, against the New York Central and Hudson River Railroad Company (Mohawk and Malone Division), as to rates on feed and grain, a letter was received from the company, stating that the cause of the complaint had been removed. Copy sent complainants. Letter received from complainants, stating that "The change of rates is highly satisfactory to us." Closed.

Complaint of G. A. Page against the Brooklyn Union Elevated Railroad Company and the Nassau Electric Railroad Company, as to fares. Ordered copy sent the president of both companies (C. L. Rossiter), with instructions to answer.

Oscar K. Lyle against the Nassau Electric Railroad Company, as to lack of service on its Seventh Avenue line to Fulton Ferry. Report of the electrical expert. Ordered filed.

In the matter of the complaint of the Citizens' Association of Bay Ridge and Fort Hamilton against the Brooklyn Union Elevated Railroad Company, the matter was reopened by the complainants, stating that the recommendation of the Board as to rate of speed at the Third Avenue curve was being violated. Letters were received from the company, stating that the recommendation was being complied with. Copy sent complainants. Letter received from complainants thanking the Board. The matter was again closed.

M. N. Stevens, of Lowville, against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg Division), as to lack of toilet conveniences at its station in Lowville. Answer of company received, stating that conveniences would be supplied. Copy sent complainant. Closed.

B. Oakley Baldwin against the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company, relative to alleged dangerous condition of a portion of the track of that railway company. Referred to the electrical expert, to make an inspection and a report.

W. Abbott against the New York, New Haven and Hartford Railroad Company, as to noise made by engines and trains at Westchester. Ordered copy sent the company.

H. M. Browning, of Wellsville, against the Erie Railroad Company, relative to farm crossing on his farm. Copy sent company with instructions to answer.

Residents of Vernon against the West Shore Railroad (leased to the New York Central and Hudson River Railroad Company) as to train service to Utica. Reply of complainants to answer of company received. Ordered letter written company, as shown by copy on file.

Jacob R. Shipherd, of Richmond Hill, against the Long Island Railroad Company, as to noise made by trains. Closed.

Louis Manz against the Rochester and Irondequoit Railroad, leased of the Rochester and Lake Ontario Railroad Company, as to condition of engine, etc. Letter received from the company, stating that the recommendation of the Board would be complied with.

Applications.

Application of the Marcellus Electric Railroad Company for approval of an increase of its capital stock from \$60,000 to \$200,000. Ordered hearing set down for Thursday, September 14, 1899, 3 o'clock p. m., at the office of the Board in Albany.

Application of the Albany and Hudson Railway and Power Company for a certificate under section 59 of the Railroad Law. Hearing set for Thursday, September 14, 1899, 11.30 o'clock a. m., at the office of the Board in Albany.

Reports.

Report of electrical expert as to operation of cars operated by steam and electricity on the same tracks of the Prospect Park and Coney Island Railroad and Brighton Beach Railroad. Ordered letter written the electrical expert, as shown by copy on file, as to name of the companies owning the cars thus operated.

Report of the electrical expert as to accident which occurred on the Park Avenue line, Brooklyn Heights Railroad Company, August 13, 1899. Ordered filed.

Report of the electrical expert as to accident which occurred on the Long Island Railroad, at Jamaica, August 7, 1899. Ordered filed.

Report of the electrical expert of an accident which occurred on the Vanderbilt Avenue line of the Nassau Electric Railroad Company at the crossing of the Manhattan Beach Division of the Long Island Railroad.

In the matter of the report of the inspector as to his inspection of the Summitville Branch of the Port Jervis, Monticello and New York Railroad Company, on June 26, 1899, a supplemental report was received from the inspector and a letter from the company on the subject. Ordered copy of the supplemental report sent the company, with a letter, as shown by copy on file.

A communication was received from Robert Dodd, coroner of Oneida county, as to finding of a coroner's jury in the matter of the death of Lester Grant, killed through striking an overhead bridge on the Rome, Watertown and Ogdensburg Railroad (leased to the New York Central and Hudson River Railroad Company), on Thursday, August 24, 1899. Letter written the New York Central and Hudson River Railroad Company, as shown by copy on file.

Crossings.

In the matter of the application of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to Goulds, Hedges, Norcross and Underhill crossings, a determination in

which was made by this Board, December 22, 1898, a letter was received from the company, stating that the town board has decided, subject to the approval of this Board, to pay to Mr. J. Underhill the sum of \$800, in settlement of his claim for land and land damages. Ordered letter written the company, stating that the Board approves of this.

Petition of the Delaware and Hudson Company and the Glens Falls Railroad Company (lessor), under section 62 of the Railroad Law, for the discontinuing of a grade crossing of the railroad of the lessor company in the village of Glens Falls. Ordered filed.

In the matter of the application of the Schenectady Railway Company, under section 68 of the Railroad Law, as to crossing a siding of the New York Central and Hudson River Railroad Company, on Rotterdam street, Schenectady, a determination in which, dated August 24, 1899, has been made by this Board, a letter was received from the applicant, stating that its officials have been instructed to comply with the terms and conditions of circular of this Board, numbered 38.

A letter was received from the Ulster and Delaware Railroad Company, lessee of the Delaware and Otsego Railroad, as to whether the latter named railroad comes within the provisions of section 60 of the Railroad Law. The Attorney-General was asked for his opinion upon the question, as submitted in the letter from the company, and his opinion, answering the question in the negative, was received. Ordered letter written the company, stating that the Board would be bound by this opinion.

Application of the town of Bethlehem, Albany county, under section 62 of the Railroad Law, as to an alteration in the crossing of the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company) by a highway running from Bethlehem church to the River Road, in said town. It being proposed to alter the highway so it will cross the railroad about 125 feet southwesterly from the present point of crossing without expense to the State or the railroad company. Ordered hearing set down for Wednesday, October 4, 1899, 11 o'clock a. m., at the office of the Board in Albany.

Hearings set.

In the matter of the petition of the president and trustees of the village of Attica, under section 62 of the Railroad Law, as to the construction of an underground crossing of the Erie Railroad on High and West Main streets, in said village. Ordered hearing set down for the village of Attica, 10 a. m., Thursday, September 21, 1899.

In the matter of the application of the town of Brighton, Monroe county, under section 61 of the Railroad Law, as to the laying out of Clover street across the New York Central and Hudson River Railroad. Ordered hearing set down for Friday, September 22, 1899, 10 a. m., at Powers Hotel, Rochester.

In the matter of the petition of the town board of the town of Carrollton, under section 62 of the Railroad Law, as to abolishing the grade crossing of the State Road and the Buffalo, Rochester and Pittsburgh Railway, near the Carrollton Depot. Ordered hearing set down for Wednesday, September 20, 1899, 10 o'clock a. m., at the Iroquois Hotel, Buffalo.

In the matter of the application of the town board of Altamont, Franklin county, under section 61 of the Railroad Law, as to carrying a new highway at Tupper Lake Junction across the New York and Ottawa Railroad. Ordered hearing set down for Wednesday, October 4, 1899, 10 o'clock a. m., at the office of the Board in Albany.

Orders.

Application of the Schoharie Valley Railroad Company for consent to the issue of a mortgage for \$40,000. Granted.

Application of the Mineola, Hempstead and Freeport Traction Company for a certificate under section 59 of the Railroad Law. Granted.

The following resolutions were adopted:

Resolved: That the resolutions of this Board of August 25, 1899, to wit:

"Resolved: That William McNelly be designated as marshal of the Board to take effect September 1st,

"Resolved: That Charles E. Gantz, now marshal, be assigned to duty as general clerk, to take effect September 1st, and that on and after September 1st his salary be eighteen hundred dollars per annul."

Be rescinded, for the reason that the Board is informed by the State Civil Service Commission that the action proposed is in conflict with the civil service law and rules.

Bills.

The following bills were approved:

General expenses.

Wm. McNelly (postage stamps).....	\$100 00
United States Express Co.....	3 43
Postal Telegraph-Cable Co.....	8 59
Western Union Telegraph Co.....	5 70
American Express Co.....	18 15
Great Bear Spring Co.....	1 80
Brandow Printing Co.....	26 97
Koelsch and Shafer.....	60
A. M. Michael.....	1 50
National Express Co.....	8 10
Banks & Brothers.....	14 00
Banks & Brothers.....	23 50
Hitchcock, Darling & Co.....	10 00
Hudson River Telephone Co.....	36 64
J. D. Shultz (expenses).....	42 35
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	\$301 33
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Grade crossing expenses.

W. C. Carland	\$1 50
Jas. E. Brazee (expenses).....	45 80
A. H. Sutermeister (expenses).....	30 77
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	\$78 07
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The Board adjourned.

ALBANY, SEPTEMBER 13, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meeting of September 5 were read and approved.

Hearings.

The adjourned hearing in the matter of the application of the Penn Yan, Lake Keuka and Southern Railroad Company, for a certificate under section 59 of the Railroad Law, which was set down for to-day, did not take place, inasmuch as the application of the company was withdrawn.

Complaints.

Charles A. Herpich against the Kings County Elevated Railroad Company. Copy sent company.

J. H. Rowe against the Boston and Albany Railroad Company as to alleged excessive charges on a shipment of apple barrels. Copy sent company. Answer of company received. Copy sent complainant.

A. B. Taylor against the Genesee and Wyoming Railroad Company as to failure to run passenger trains. Copy sent company.

Recess until 2 p. m.

AFTER RECESS—2 P. M.

All present.

Reports.

In the matter of the report of the inspector as to his inspection of the Schoharie Valley Railroad, a letter was received from the company, stating that the recommendations of the Board would be complied with.

In the matter of the report of the inspector as to his inspection of the Cooperstown and Charlotte Valley Railroad, a letter was received from the company, stating that the recommendations of the Board would be complied with.

Report of the inspector of his inspection of the Poughkeepsie and Eastern Railway. Copy sent company with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Catskill Mountain Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Lake Shore and Michigan Southern Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Greenwich and Johnsonville Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the Otis Elevating Railway. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector of his inspection of the New England Railroad. Copy sent company.

Report of the inspector of his inspection of the Fitchburg Railroad. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter sent the Delaware and Hudson Company as to signals at gauntletted track near Eagle Bridge. Letter received from the Delaware and Hudson Company in reference thereto. Letter received from the Fitchburg Railroad Company in reference to inspection report. Ordered letter written to the Fitchburg Railroad Company, as shown by copy on file.

Crossings.

In the matter of the determination of this Board, under section 62 of the Railroad Law, as to the abolishment of the Roots and Milk Station crossings of the New York, Ontario and Western Railway, a letter was received from the town board, stating that the town, with the approval of the railroad company, has acquired the necessary lands and easements in lands involved in the change. Ordered letter written the company, as shown by copy on file.

Orders.

Application of the Port Chester Street Railway Company for approval of an increase of its capital stock from \$100,000 to \$300,000. Granted.

Bills.

The following bills were approved:

General expenses.

J. D. Shultz (expenses).....	\$41 50
Hitchcock, Darling & Co.....	10 00
American Express Co.....	8 45
National Express Co.....	5 00
United States Express Co.....	7 95
	<hr/>
	\$72 90

Grade crossing expenses.

M. D. Tennant (salary)	\$24 00
M. D. Tennant (expenses).....	10 40
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	\$34 00

The Board adjourned.

ALBANY, SEPTEMBER 14, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Dunkirk and Point Gratiot Traction Company for a certificate under section 59 of the Railroad Law. L. F. Stearns for the applicant. H. A. Taylor for the Erie Railroad Company. After hearing the evidence and arguments the matter was closed. Mr. Taylor for the Erie Railroad Company, withdrew opposition to the application.

In the matter of the petition of the town board of the town of Schodack as to the abolishment of the crossings at grade of Brookview avenue and other highways and the Boston and Albany Railroad, a hearing was given as to some of the details of the highway work. Hon. F. M. Boyce and a delegation of the citizens appeared for the town. E. E. Stone appeared for the Boston and Albany Railroad Company. Changes in the work on the highways were determined should be made, as shown by copy of a letter from this Board to the Boston and Albany Railroad Company, dated September 15, 1899, on file.

Application of the Ulster and Delaware Railroad Company, Stony Clove and Catskill Mountain Railroad Company and Kaaterskill Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. Amos Van Etten appeared for the applicants. Approval, as shown by copy of letter on file, given.

Application of the Erie Railroad Company and the New York, Susquehanna and Western Railroad Company (lessee of the Middletown, Unionville and Water Gap Railroad), under section 50 of the Railroad Law, for approval of highway crossing signs. H. A. Taylor appeared for the applicants. Approval, as shown by copy of letter on file, given.

Applications of the New York and Rockaway Beach Railway Company, the Long Island Railroad Company and the Prospect Park and Coney Island Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. W. J. Kelly appeared by telegram and telephone for the applicants. Approval, as shown by copy of letter on file given.

Application of the New York Central and Hudson River Railroad Company, under section 50 of the Railroad Law, as to approval of highway

crossing signs for itself and the following railroads operated by it: Rome, Watertown and Ogdensburg Railroad, New York and Harlem Railroad, New York and Putnam Railroad, Mohawk and Malone Railway, Terminal Railway of Buffalo, and Fall Brook Railroad and Fall Brook Railroad leased lines in this State, under section 50 of the Railroad Law, as to approval of highway crossing sign. C. C. Paulding appeared for the applicant. Approval, as shown by copy of letter on file, given.

Application of the Fitchburg Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. H. W. Hayes appeared for the applicant. Approval, as shown by copy of letter on file, given.

Application of the Lehigh Valley Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. M. Carey appeared for the applicant. Approval, as shown by copy of letter on file, given.

In the matter of the determination of the Board, under section 61 of the Railroad Law, as to carrying Folts street, in the village of Herkimer, across the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), a hearing was given as to the height, length and material of the bridge by means of which said street shall be carried across said railway. C. C. Paulding appeared for the New York Central and Hudson River Railroad Company. Robert E. Steele appeared for the applicant, the village of Herkimer. The Board determined that the height, length and material of the bridge shall be as shown by a plan prepared by this Board, entitled "Board of R. R. Commissioners. Plan of proposed over-crossing at Folts st., Herkimer, Sept. 14, 1899. A. H. Sutermeister, S. G. C. B."

Application of the Albany and Hudson Railway and Power Company for a certificate under section 59 of the Railroad Law. C. A. Collin appeared for the applicant. No one in opposition. After hearing evidence and arguments, the application was granted.

The Board took a recess until 2:30 p. m.

AFTER RECESS—2:30 P. M.

All present.

Hearings.

Application of the Marcellus Electric Railroad Company for approval of an increase of its capital stock from \$60,000 to \$200,000. Edward Moir for the applicant. Granted.

Crossings.

A letter was received from the Syracuse, Binghamton and New York Railroad Company, enclosing plans and estimate for undercrossing by Bevier street, Binghamton, a determination in which, under section 62 of the Railroad Law, was made by this Board, June 28, 1899. Ordered plans and estimate approved.

Application of the Dunkirk and Point Gratiot Traction Company, under section 68 of the Railroad Law, as to crossing the Erie Railroad on Front street, city of Dunkirk. Ordered filed.

Orders.

Application of the Kinderhook and Hudson Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York, Chicago and St. Louis Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Keesville, Ausable Chasm and Lake Champlain Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Catskill Mountain Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York, Ontario and Western Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Central New York and Western Railroad Company for approval of highway crossing signs. (This railroad is now part of the Pittsburgh, Shawmut and Northern Railroad Company.) Approval given of one form of sign, and other forms of signs disapproved, as shown by copy of letter on file.

Application of the Buffalo, Rochester and Pittsburgh Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Ogdensburg and Lake Champlain Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Bath and Hammondsport Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Buffalo, Attica and Arcade Railroad Company for approval of highway crossing signs. Ordered disapproved, as shown by copy of letter on file.

Application of the Genesee and Wyoming Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York and Pennsylvania Railroad Company for approval of highway crossing signs. One form of sign approved and another disapproved, as shown by copy of letter on file.

Application of the Ulster and Delaware Railroad Company, Stony Clove and Catskill Mountain Railroad Company, and Kaaterskill Railroad Company as to approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Erie Railroad Company and the New York, Susquehanna and Western Railroad Company (lessee of the Middletown, Unionville and Water Gap Railroad) for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York and Rockaway Beach Railway Company, the Long Island Railroad Company and the Prospect Park and Coney Island Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York Central and Hudson River Railroad Company for approval of highway crossing signs for itself and the following railroads operated by it: Rome, Watertown and Ogdensburg Railroad, New York and Harlem Railroads, New York and Putnam Railroad, Mohawk and Malone Railway, Terminal Railway of Buffalo, and Fall Brook Railroad and Fall Brook Railroad leased lines in the state, for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Fitchburg Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Lehigh Valley Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Dunkirk and Point Gratiot Traction Company for a certificate under section 59 of the Railroad Law. Granted.

In the matter of the petition of the town board of the town of Schodack as to the abolishment of the crossing at grade of Brookview avenue and other highways and the Boston and Albany Railroad, the Board determined that changes in the work on the highways should be made, as shown by copy of letter, dated September 15, 1890, on file.

In the matter of the determination of the Board, under section 61 of the Railroad Law, as to carrying Folts street, in the village of Herkimer, across the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), the Board determined that the height, length and material of the bridge shall be as shown by a plan prepared by the Board, entitled "Board of R. R. Commissioners. Plan of proposed over-crossing at Folts st., Herkimer, Sept. 14, 1890. A. H. Sutermeister, S. G. C. B."

Application of the Marcellus Electric Railroad Company for approval of an increase of its capital stock from \$60,000 to \$200,000. Granted.

Application of the Albany and Hudson Railway and Power Company for a certificate under section 59 of the Railroad Law. Granted.

The Board adjourned.

ATTICA, SEPTEMBER 21, 1890.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the president and trustees of the village of Attica, under section 62 of the Railroad Law, as to carrying High and West Main streets under the Erie Railroad. William E. Hopkins, village attorney, and Hugh Miller for the village. G. M. Sicaud and C. A. Brunn for the Erie Railroad Company. After hearing evidence and arguments, the evidence was closed, but the matter was held open pending the making of a plan for the undercrossing by the superintendent of the Grade Crossing Bureau in this department.

Application of the town board of the town of Carrollton, Cattaraugus county, under section 62 of the Railroad Law, as to crossing by the state road of the Buffalo, Rochester and Pittsburg Railway. Withdrawn.

The Board adjourned.

BINGHAMTON, SEPTEMBER 25, 1890.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned and final hearing in the matter of the petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Chenango street and the Delaware, Lackawanna and Western Railroad (lessee of the New York, Lackawanna and Western Railroad), the Erie Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company). Jerome DeWitt, mayor, for the city; D. S. Richards for the Delaware, Lackawanna and Western Railroad Company; C. W. Buchholz for the Erie Railroad Company; C. D. Hammond, for the Delaware and Hudson Company (lessee of the Albany and Susquehanna Railroad). appeared at 10:30 and protested against the plan of the proposed viaduct on behalf of the Delaware and Hudson Company, on the ground that it destroys the Chenango street front of said company's property. The Board had already determined, when Mr. Hammond appeared, that a bridge or viaduct should be constructed to carry Chenango street over the railroads.

In the matter of the determination of this Board, under section 62 of the Railroad Law, as to the carrying of Bevier street, Binghamton, under the Syracuse, Binghamton and New York Railroad, James Archbald appeared and asked that the determination be so modified that the bridge

in the railroad shall provide for three tracks. S. E. Monroe, for the city, stated that he did not see any serious objection to the proposed change except the increased cost. Mr. Archbald agreed to submit a new plan and estimate to the Board showing a bridge in the railroad to carry three tracks, after which the Board will determine the application. Mr. Archbald is to furnish the city authorities with a copy of the plan and estimate.

In the matter of the application of the Nassau Belt Line Traction Company for a certificate under section 59 of the Railroad Law, Paul K. Ames, president of the company, appeared and filed with the Board a stipulation signed by him, which reads as follows: "The Nassau Belt Line Traction Company hereby stipulates and bind itself to operate its lines by electric motive power only."

Orders.

In the matter of the petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Chenango street and the Delaware, Lackawanna and Western Railroad (lessee of the New York, Lackawanna and Western Railroad), the Erie Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company). Determination that the street shall be carried over the railroad by means of an overhead bridge.

The Board adjourned.

ALBANY, OCTOBER 4, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of the meetings of September 13, 14, 21 and 25 were read and approved.

Hearings.

Application of the town of Altamont, under section 61 of the Railroad Law, as to crossing the New York and Ottawa Railroad. Martin E. McClary for the applicant. Application granted.

Adjourned hearing in the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue B shall cross the New York Central and Hudson River Railroad. John G. Farwell for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition.

Application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue E shall cross the New York Central and Hudson River Railroad. John G. Farwell for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition. These cases were heard together. The applications were dismissed, owing to defective form.

Adjourned hearing in the matter of the petition of the mayor and common council of the city of Johnstown, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of West Main street and the Fonda, Johnstown and Gloversville Railroad, in said city, it being proposed to carry the street over the railroad by means of a bridge. Bordon D. Smith for the applicant; Baker & Burton for the Fonda, Johnstown and Gloversville Railroad Company, in opposition. After hearing evidence, the hearing was suspended in order to hear the application of the town board of the town of Bethlehem, under section 62 of the Railroad Law.

Petition of the town board of the town of Bethlehem, Albany county, under section 62 of the Railroad Law, as to an alteration in the crossing of the West Shore Railroad (leased by the New York Central and Hudson

River Railroad Company) by a highway running from the Bethlehem church to the River road, in said town, it being proposed to alter the highway so it shall cross the railroad about 125 feet southwesterly from the present point of crossing, without expense to the State or the railroad company. John M. Bailey for the applicant; Spencer Merchant in opposition. After hearing arguments, the application was granted.

The hearing in the Johnstown crossing matter was resumed. After hearing further evidence and arguments, a recess was taken until 2:15 p. m.

AFTER RECESS—2:15 P. M.

The hearing in the Johnstown crossing matter was resumed, and taking of evidence completed. Briefs are to be filed with the Board by the 30th of October. The Board is to inspect the crossing.

Complaints.

John Jopp, of Caledonia, N. Y., against the Erie Railroad Company, as to the condition of the railroad fences along his land, and as to cattle guards. Copy sent company.

H. M. Browning, of Wellsville, against the Erie Railroad Company, relative to farm crossing on his farm. Answer of company received. Letter written complainant, as shown by copy on file, and case closed.

In the matter of the complaint of B. Oakley Baldwin against the Herkimer, Mohawk, Ilion and Fraukfort Electric Railway Company, relative to alleged dangerous condition of a portion of the track of said railway company, a report was received from the electrical expert of his inspection of the railway. Ordered copy sent company, with a letter, making the recommendations of the electrical expert the recommendations of the Board.

J. H. Rowe against the Boston and Albany Railroad Company, as to alleged excessive charges on shipment of apple barrels. Reply of complainant to answer of company received. Letter written complainant, dismissing complaint.

Residents of Vernon against the New York Central and Hudson River Railroad Company, as to train service. Letter received from company. Ordered filed.

J. R. Shipherd against Long Island Railroad Company as to noise of trains at Richmond Hill. Letter received from complainant. Ordered letter written complainant and company, as shown by copy on file and case closed.

William Abbott against the New York, New Haven and Hartford Railroad Company, as to noise in its Westchester yard. Answer of company received. Copy sent complainant. Reply of complainant received. Ordered letter written complainant, as shown by copy on file, and case closed.

C. W. Wentz against the New York Central and Hudson River Railroad Company (Fall Brook division) as to cessation of train service at Moreland station. Letter received from complainant, stating that the train service had been resumed, and thanking the Board. Closed.

Gilbert M. Vandervort against the Lehigh Valley Railroad Company, as to fences and cattle guards. This case was closed and reopened upon receipt of a letter from complainant. Copy of the latter letter sent the company.

A letter was received from Irving H. Palmer, as attorney for William Hunt, as to fences on the Lehigh Valley Railroad along the land of Mr. Hunt. Ordered letter written the president of the Lehigh Valley Railroad Company, as shown by copy on file.

The city of North Tonawanda against the Erie Railroad Company, as to the condition of its crossing on Oliver street. Copy sent company.

A. B. Taylor, of Fowlerville, Livingston county, against the Genesee and Wyoming Railway, as to lack of passenger train service. Answer of company received, stating that passenger train service would be resumed Monday, October 2d. Closed.

Orders.

In the matter of the application of the town of Altamont, under section 61 of the Railroad Law, as to a new highway crossing the New York and Ottawa Railroad, the Board determined that the new crossing may be made at grade, as shown by copy of determination on file.

In the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to carrying Avenue B, in said city, over the New York Central and Hudson River Railroad, application dismissed, as shown by order on file.

In the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to carrying Avenue E, in said city, over the New York Central and Hudson River Railroad, application dismissed, as shown by order on file.

Application of the town board of the town of Bethlehem, Albany county, under section 62 of the Railroad Law, as to an alteration in the crossing of the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company) by a highway running from the Bethlehem church to the River road, in said town, it being proposed to alter the highway so it shall cross the railroad about 125 feet southwesterly from the present point of crossing, without expense to the State or the railroad company. Determination that the highway be altered in location and cross the railroad at grade, as shown by copy of determination on file, no part of the expense to be borne by either the State or the railroad company.

The Board adjourned.

ALBANY, OCTOBER 5, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Applications.

Application of the Buffalo and Susquehanna Railroad Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Application of the Poughkeepsie and Eastern Railway Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Reports.

In the matter of the report of the superintendent of the grade crossing bureau as to signals protecting the draw span of the Delaware and Hudson Company's railroad bridge, between Green Island and Troy, ordered hearing set down for Monday, October 16, 1899, 10 o'clock a. m., at the office of the Board, in Albany.

Report of the electrical expert of his inspection of the Ithaca Street Railway. Copy sent company, with letter, making the recommendations of the electrical expert the recommendations of the Board. Letter received from the New York Central and Hudson River Railroad in the matter of the death of Lester Grant, August 24, 1899. Ordered filed.

Report of the inspector as to blocking of frogs and switches on the New York Central and Hudson River Railroad. Ordered filed.

In the matter of the report of the inspector of his inspection of the Greenwich and Johnsonville Railway, a letter was received from the company, stating that the recommendations of the Board would have attention. Ordered filed.

In the matter of the report of the inspector of his inspection of the Fitchburg Railroad, a letter was received from the company as to rules governing the operation of the gauntleted tracks at Eagle Bridge. Ordered filed.

In the matter of the report of the inspector of his inspection of the Keeseville, Ausable Chasm and Lake Champlain Railroad, a letter was received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

In the matter of the report of the inspector of his inspection of the Otis Elevating Railway, a letter was received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

In the matter of the report of the inspector of his inspection of the Poughkeepsie and Eastern Railway, a letter was received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

A report was received from the inspector as to the subject of fires communicated by locomotive engines. Ordered copy sent to Hon. E. R. Brown (who has written the Board on this subject) and filed.

Report of the inspector of his inspection of so much of the New York, Chicago and St. Louis Railroad as is within the State of New York. Copy sent company, with letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

Supplemental report of the electrical expert as to the operation of steam trains and electric cars on the Prospect Park and Coney Island Railroad and the Brighton Beach Railroad. Ordered filed.

Report of the inspector as to accident at grade crossing near Oneida, on the New York Central and Hudson River Railroad, on September 23, 1899. Ordered filed.

Crossings.

Report of the electrical expert of his inspection of points where the Ithaca Street Railway crosses steam railroads at grade. Ordered copy of report sent to the company, with a letter making the recommendations of the electrical expert the recommendations of the Board.

In the matter of the application of the Elmira and Seneca Lake Railway Company, under section 68 of the Railroad Law, as to crossing the tracks of the Northern Central Railway on Main street, in the village of Montour Falls, a report was received from the electrical expert of his inspection of the proposed crossing. Ordered hearing set down for Monday, October 16, 1899, 10 o'clock a. m., at the office of the Board in Albany.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad and East street, in the village of Fonda. Ordered hearing set down for Monday, October 23, 1899, 1 o'clock p. m., at Baggs Hotel, city of Utica.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing at the West Shore Railroad (its lessor) and a highway known as the Seneca Turnpike, in the town of Vernon, one-half mile east of Oneida Castle station. Ordered hearing set down for Monday, October 23, 1899, 1 o'clock p. m., at Baggs Hotel, city of Utica.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Utica and Black River Railroad (its lessor) and a highway connecting the Stittsville road and Simmons road. Ordered hearing set down for Monday, October 23, 1899, 1 o'clock p. m., at Baggs Hotel, city of Utica.

Application of the town board of the town of Islip, Suffolk county, under section 62 of the Railroad Law, in the matter of the abolishment of the Fifth street crossing (Brentwood, L. I.) of the Long Island Railroad. Ordered hearing set down for Friday, October 13, 1899, 11.30 o'clock a. m., at the Long Island Railroad station, in Brentwood.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of a grade crossing of the North Sea road and its railroad, in the village of Southampton, L. I. Ordered hearing set down for Friday, October 13, 1899, 2 o'clock p. m., at Long Island Railroad station, in the village of Southampton.

Orders.

In the matter of the petition of the town board of the town of Randolph, Cattaraugus county, under section 62 of the Railroad Law, as to abolishing the grade crossing of the Erie Railroad and the Ireland road, in said town, a determination in which has been made by this Board, plans, estimate and proposals for doing the work were approved, as shown by copy of letter on file.

In the matter of the petition of the president and trustees of the village of Randolph, Cattaraugus county, under section 62 of the Railroad Law, as to abolishing the grade crossings of the Erie Railroad and Jamestown street and Fifth avenue, in said village, plans, estimate and proposals for doing the work were approved, as shown by copy of letter on file.

The Secretary was directed to purchase metallic file cases.

In the matter of the petition of the mayor and common council of the city of Cohoes, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the railroad operated by the Delaware and Hudson Company and Ontario street, on Van Schaick Island, near the bridge over the Hudson river, the Board determined that the street shall be carried over the railroad by means of a bridge, substantially, as shown by plan attached to determination.

In the matter of the petition of the town board of the town of Madison, Madison county, under section 62 of the Railroad Law, a determination in which was made by this Board November 11, 1898, such determination was modified, as shown by order on file, to which is attached a blue print, showing the changes in location of highway to be made.

Application of the Nassau Belt Line Traction Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Buffalo and Susquehanna Railroad Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Application of the Poughkeepsie and Eastern Railway Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Bills.

The following bills were approved:

General expenses.

J. B. Lyon Company.....	\$1 50
Harry W. Riggs.....	3 00
C. E. Argersinger.....	4 00
National Press Intelligence Co.....	13 45
Phillip J. Henzel.....	11 70
J. D. Shultz (expenses, September).....	26 51
Brandow Printing Co.....	15 10
Postal Telegraph-Cable Co.....	13 34
Great Bear Spring Co.....	1 80
Chas. R. Barnes (expenses, August and September).....	251 02
Western Union Telegraph Co.....	12 07
Hudson River Telephone Co.....	21 57
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	\$375 06

Grade crossing expenses.

W. C. Carland	\$24 60
A. H. Sutermeister (expenses, September).....	20 15
Jas. E. Brazee (expenses, September).....	46 80
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	\$91 55

The Board adjourned.

KINGS PARK, L. I., OCTOBER 13, 1899—9 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the town board of the town of Smithtown, Suffolk county, under section 62 of the Railroad Law, as to the abolishment of two grade crossings of the Long Island Railroad and the road leading from Smithtown to Sunk Meadow. E. H. L. Smith, supervisor, and John F. Kelly appeared for the town board. Theodore W. Smith, John Kelly, H. C. Smith's Sons, Mr. Carlson and Eugene Keane, property owners, also appeared. A. A. Gardner appeared for the Long Island Railroad Company. After hearing the persons interested the hearing was closed.

The Board adjourned.

BRENTWOOD, L. I., OCTOBER 13, 1899—11.30 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the town board of the town of Islip, Suffolk county, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of a highway known as Fifth street and the Long Island Railroad, in Brentwood. Frank Parker, supervisor, and Frank E. Blacker, justice of peace, appeared for the town board. Anthony H. Creagh, Charles A. Codman, property owners, also appeared. A. C. Clark appeared for Mrs. Etta Kellane, a property owner. E. F. Howell appeared for himself, as a property owner, for Marie E. Cumming, as a property owner, and for the Brentwood Land Company. A. A. Gardner appeared for the railroad company. The property owners all opposed the abolishment of the grade crossing, and suggested that a warning bell be erected at the crossing and the underbrush obscuring the view of the railroad be cut away. After hearing the persons interested, the matter was closed.

The Board adjourned.

SOUTHAMPTON, L. I., OCTOBER 13, 1899—2 P. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad and the North Sea road, in the village of Southampton. A. A. Gardner

Bills.

The following bills were approved:

General expenses.

J. D. Shultz (expenses).....	\$41 50
Hitchcock, Darling & Co.....	10 00
American Express Co.....	8 45
National Express Co.....	5 00
United States Express Co.....	7 95
	<hr/>
	\$72 90

Grade crossing expenses.

M. D. Tennant (salary)	\$24 00
M. D. Tennant (expenses).....	10 40
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	\$34 00

The Board adjourned.

ALBANY, SEPTEMBER 14, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the application of the Dunkirk and Point Gratiot Traction Company for a certificate under section 59 of the Railroad Law. L. F. Stearns for the applicant. H. A. Taylor for the Erie Railroad Company. After hearing the evidence and arguments the matter was closed. Mr. Taylor for the Erie Railroad Company, withdrew opposition to the application.

In the matter of the petition of the town board of the town of Schodack as to the abolishment of the crossings at grade of Brookview avenue and other highways and the Boston and Albany Railroad, a hearing was given as to some of the details of the highway work. Hon. F. M. Boyce and a delegation of the citizens appeared for the town. E. E. Stone appeared for the Boston and Albany Railroad Company. Changes in the work on the highways were determined should be made, as shown by copy of a letter from this Board to the Boston and Albany Railroad Company, dated September 15, 1899, on file.

Application of the Ulster and Delaware Railroad Company, Stony Clove and Catskill Mountain Railroad Company and Kaaterskill Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. Amos Van Etten appeared for the applicants. Approval, as shown by copy of letter on file, given.

Application of the Erie Railroad Company and the New York, Susquehanna and Western Railroad Company (lessee of the Middletown, Unionville and Water Gap Railroad), under section 50 of the Railroad Law, for approval of highway crossing signs. H. A. Taylor appeared for the applicants. Approval, as shown by copy of letter on file, given.

Applications of the New York and Rockaway Beach Railway Company, the Long Island Railroad Company and the Prospect Park and Coney Island Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. W. J. Kelly appeared by telegram and telephone for the applicants. Approval, as shown by copy of letter on file given.

Application of the New York Central and Hudson River Railroad Company, under section 50 of the Railroad Law, as to approval of highway

crossing signs for itself and the following railroads operated by it: Rome, Watertown and Ogdensburg Railroad, New York and Harlem Railroad, New York and Putnam Railroad, Mohawk and Malone Railway, Terminal Railway of Buffalo, and Fall Brook Railroad and Fall Brook Railroad leased lines in this State, under section 50 of the Railroad Law, as to approval of highway crossing sign. C. C. Paulding appeared for the applicant. Approval, as shown by copy of letter on file, given.

Application of the Fitchburg Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. H. W. Hayes appeared for the applicant. Approval, as shown by copy of letter on file, given.

Application of the Lehigh Valley Railroad Company, under section 50 of the Railroad Law, as to approval of highway crossing signs. M. Carey appeared for the applicant. Approval, as shown by copy of letter on file, given.

In the matter of the determination of the Board, under section 61 of the Railroad Law, as to carrying Folts street, in the village of Herkimer, across the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), a hearing was given as to the height, length and material of the bridge by means of which said street shall be carried across said railway. C. C. Paulding appeared for the New York Central and Hudson River Railroad Company. Robert E. Steele appeared for the applicant, the village of Herkimer. The Board determined that the height, length and material of the bridge shall be as shown by a plan prepared by this Board, entitled "Board of R. R. Commissioners. Plan of proposed over-crossing at Folts st., Herkimer, Sept. 14, 1899. A. H. Sutermeister, S. G. C. B."

Application of the Albany and Hudson Railway and Power Company for a certificate under section 59 of the Railroad Law. C. A. Collin appeared for the applicant. No one in opposition. After hearing evidence and arguments, the application was granted.

The Board took a recess until 2:30 p. m.

AFTER RECESS—2.30 P. M.

All present.

Hearings.

Application of the Marcellus Electric Railroad Company for approval of an increase of its capital stock from \$60,000 to \$200,000. Edward Moir for the applicant. Granted.

Crossings.

A letter was received from the Syracuse, Binghamton and New York Railroad Company, enclosing plans and estimate for undercrossing by Beyer street, Binghamton, a determination in which, under section 62 of the Railroad Law, was made by this Board, June 28, 1899. Ordered plans and estimate approved.

Application of the Dunkirk and Point Gratiot Traction Company, under section 68 of the Railroad Law, as to crossing the Erie Railroad on Front street, city of Dunkirk. Ordered filed.

Orders.

Application of the Kinderhook and Hudson Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York, Chicago and St. Louis Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Keesville, Ausable Chasm and Lake Champlain Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Catskill Mountain Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York, Ontario and Western Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Central New York and Western Railroad Company for approval of highway crossing signs. (This railroad is now part of the Pittsburgh, Shawmut and Northern Railroad Company.) Approval given of one form of sign, and other forms of signs disapproved, as shown by copy of letter on file.

Application of the Buffalo, Rochester and Pittsburgh Railway Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Ogdensburg and Lake Champlain Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Bath and Hammondsport Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Buffalo, Attica and Arcade Railroad Company for approval of highway crossing signs. Ordered disapproved, as shown by copy of letter on file.

Application of the Genesee and Wyoming Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York and Pennsylvania Railroad Company for approval of highway crossing signs. One form of sign approved and another disapproved, as shown by copy of letter on file.

Application of the Ulster and Delaware Railroad Company, Stony Clove and Catskill Mountain Railroad Company, and Kaaterskill Railroad Company as to approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Erie Railroad Company and the New York, Susquehanna and Western Railroad Company (lessee of the Middletown, Unionville and Water Gap Railroad) for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York and Rockaway Beach Railway Company, the Long Island Railroad Company and the Prospect Park and Coney Island Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the New York Central and Hudson River Railroad Company for approval of highway crossing signs for itself and the following railroads operated by it: Rome, Watertown and Ogdensburg Railroad, New York and Harlem Railroads, New York and Putnam Railroad, Mohawk and Malone Railway, Terminal Railway of Buffalo, and Fall Brook Railroad and Fall Brook Railroad leased lines in the state, for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Fitchburg Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Lehigh Valley Railroad Company for approval of highway crossing signs. Approval, as shown by copy of letter on file, given.

Application of the Dunkirk and Point Gratiot Traction Company for a certificate under section 59 of the Railroad Law. Granted.

In the matter of the petition of the town board of the town of Schodack as to the abolishment of the crossing at grade of Brookview avenue and other highways and the Boston and Albany Railroad, the Board determined that changes in the work on the highways should be made, as shown by copy of letter, dated September 15, 1890, on file.

In the matter of the determination of the Board, under section 61 of the Railroad Law, as to carrying Folts street, in the village of Herkimer, across the Mohawk and Malone Railway (leased to the New York Central and Hudson River Railroad Company), the Board determined that the height, length and material of the bridge shall be as shown by a plan prepared by the Board, entitled "Board of R. R. Commissioners. Plan of proposed over-crossing at Folts st., Herkimer, Sept. 14, 1899. A. H. Sutermeister, S. G. C. B."

Application of the Marcellus Electric Railroad Company for approval of an increase of its capital stock from \$60,000 to \$200,000. Granted.

Application of the Albany and Hudson Railway and Power Company for a certificate under section 59 of the Railroad Law. Granted.

The Board adjourned.

ATTICA, SEPTEMBER 21, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the president and trustees of the village of Attica, under section 62 of the Railroad Law, as to carrying High and West Main streets under the Erie Railroad. William E. Hopkins, village attorney, and Hugh Miller for the village. G. M. Sicard and C. A. Brunn for the Erie Railroad Company. After hearing evidence and arguments, the evidence was closed, but the matter was held open pending the making of a plan for the undercrossing by the superintendent of the Grade Crossing Bureau in this department.

Application of the town board of the town of Carrollton, Cattaraugus county, under section 62 of the Railroad Law, as to crossing by the state road of the Buffalo, Rochester and Pittsburg Railway. Withdrawn.

The Board adjourned.

BINGHAMTON, SEPTEMBER 25, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned and final hearing in the matter of the petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Chenango street and the Delaware, Lackawanna and Western Railroad (lessee of the New York, Lackawanna and Western Railroad), the Erie Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company). Jerome DeWitt, mayor, for the city; D. S. Richards for the Delaware, Lackawanna and Western Railroad Company; C. W. Buchholz for the Erie Railroad Company; C. D. Hammond, for the Delaware and Hudson Company (lessee of the Albany and Susquehanna Railroad). appeared at 10:30 and protested against the plan of the proposed viaduct on behalf of the Delaware and Hudson Company, on the ground that it destroys the Chenango street front of said company's property. The Board had already determined, when Mr. Hammond appeared, that a bridge or viaduct should be constructed to carry Chenango street over the railroads.

In the matter of the determination of this Board, under section 62 of the Railroad Law, as to the carrying of Bevier street, Binghamton, under the Syracuse, Binghamton and New York Railroad, James Archbald appeared and asked that the determination be so modified that the bridge

in the railroad shall provide for three tracks. S. E. Monroe, for the city, stated that he did not see any serious objection to the proposed change except the increased cost. Mr. Archbald agreed to submit a new plan and estimate to the Board showing a bridge in the railroad to carry three tracks, after which the Board will determine the application. Mr. Archbald is to furnish the city authorities with a copy of the plan and estimate.

In the matter of the application of the Nassau Belt Line Traction Company for a certificate under section 59 of the Railroad Law, Paul K. Ames, president of the company, appeared and filed with the Board a stipulation signed by him, which reads as follows: "The Nassau Belt Line Traction Company hereby stipulates and bind itself to operate its lines by electric motive power only."

Orders.

In the matter of the petition of the mayor and common council of the city of Binghamton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Chenango street and the Delaware, Lackawanna and Western Railroad (lessee of the New York, Lackawanna and Western Railroad), the Erie Railroad and the Albany and Susquehanna Railroad (leased to the Delaware and Hudson Company). Determination that the street shall be carried over the railroad by means of an overhead bridge.

The Board adjourned.

ALBANY, OCTOBER 4, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker, and Dunn.

The minutes of the meetings of September 13, 14, 21 and 25 were read and approved.

Hearings.

Application of the town of Altamont, under section 61 of the Railroad Law, as to crossing the New York and Ottawa Railroad. Martin E. McClary for the applicant. Application granted.

Adjourned hearing in the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue B shall cross the New York Central and Hudson River Railroad. John G. Farwell for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition.

Application of the city of Geneva, under section 61 of the Railroad Law, as to the manner in which Avenue E shall cross the New York Central and Hudson River Railroad. John G. Farwell for the city; A. H. Harris for the New York Central and Hudson River Railroad Company, in opposition. These cases were heard together. The applications were dismissed, owing to defective form.

Adjourned hearing in the matter of the petition of the mayor and common council of the city of Johnstown, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of West Main street and the Fonda, Johnstown and Gloversville Railroad, in said city, it being proposed to carry the street over the railroad by means of a bridge. Bordon D. Smith for the applicant; Baker & Burton for the Fonda, Johnstown and Gloversville Railroad Company, in opposition. After hearing evidence, the hearing was suspended in order to hear the application of the town board of the town of Bethlehem, under section 62 of the Railroad Law.

Petition of the town board of the town of Bethlehem, Albany county, under section 62 of the Railroad Law, as to an alteration in the crossing of the West Shore Railroad (leased by the New York Central and Hudson

River Railroad Company) by a highway running from the Bethlehem church to the River road, in said town, it being proposed to alter the highway so it shall cross the railroad about 125 feet southwesterly from the present point of crossing, without expense to the State or the railroad company. John M. Bailey for the applicant; Spencer Merchant in opposition. After hearing arguments, the application was granted.

The hearing in the Johnstown crossing matter was resumed. After hearing further evidence and arguments, a recess was taken until 2:15 p. m.

AFTER RECESS—2:15 P. M.

The hearing in the Johnstown crossing matter was resumed, and taking of evidence completed. Briefs are to be filed with the Board by the 30th of October. The Board is to inspect the crossing.

Complaints.

John Jopp, of Caledonia, N. Y., against the Erie Railroad Company, as to the condition of the railroad fences along his land, and as to cattle guards. Copy sent company.

H. M. Browning, of Wellsville, against the Erie Railroad Company, relative to farm crossing on his farm. Answer of company received. Letter written complainant, as shown by copy on file, and case closed.

In the matter of the complaint of B. Oakley Baldwin against the Herkimer, Mohawk, Ilion and Frankfurt Electric Railway Company, relative to alleged dangerous condition of a portion of the track of said railway company, a report was received from the electrical expert of his inspection of the railway. Ordered copy sent company, with a letter, making the recommendations of the electrical expert the recommendations of the Board.

J. H. Rowe against the Boston and Albany Railroad Company, as to alleged excessive charges on shipment of apple barrels. Reply of complainant to answer of company received. Letter written complainant, dismissing complaint.

Residents of Vernon against the New York Central and Hudson River Railroad Company, as to train service. Letter received from company. Ordered filed.

J. R. Shipherd against Long Island Railroad Company as to noise of trains at Richmond Hill. Letter received from complainant. Ordered letter written complainant and company, as shown by copy on file and case closed.

William Abbott against the New York, New Haven and Hartford Railroad Company, as to noise in its Westchester yard. Answer of company received. Copy sent complainant. Reply of complainant received. Ordered letter written complainant, as shown by copy on file, and case closed.

C. W. Wentz against the New York Central and Hudson River Railroad Company (Fall Brook division) as to cessation of train service at Moreland station. Letter received from complainant, stating that the train service had been resumed, and thanking the Board. Closed.

Gilbert M. Vandervort against the Lehigh Valley Railroad Company, as to fences and cattle guards. This case was closed and reopened upon receipt of a letter from complainant. Copy of the latter letter sent the company.

A letter was received from Irving H. Palmer, as attorney for William Hunt, as to fences on the Lehigh Valley Railroad along the land of Mr. Hunt. Ordered letter written the president of the Lehigh Valley Railroad Company, as shown by copy on file.

The city of North Tonawanda against the Erie Railroad Company, as to the condition of its crossing on Oliver street. Copy sent company.

A. B. Taylor, of Fowlerville, Livingston county, against the Genesee and Wyoming Railway, as to lack of passenger train service. Answer of company received, stating that passenger train service would be resumed Monday, October 2d. Closed.

Orders.

In the matter of the application of the town of Altamont, under section 61 of the Railroad Law, as to a new highway crossing the New York and Ottawa Railroad, the Board determined that the new crossing may be made at grade, as shown by copy of determination on file.

In the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to carrying Avenue B, in said city, over the New York Central and Hudson River Railroad, application dismissed, as shown by order on file.

In the matter of the application of the city of Geneva, under section 61 of the Railroad Law, as to carrying Avenue E, in said city, over the New York Central and Hudson River Railroad, application dismissed, as shown by order on file.

Application of the town board of the town of Bethlehem, Albany county, under section 62 of the Railroad Law, as to an alteration in the crossing of the West Shore Railroad (leased by the New York Central and Hudson River Railroad Company) by a highway running from the Bethlehem church to the River road, in said town, it being proposed to alter the highway so it shall cross the railroad about 125 feet southwesterly from the present point of crossing, without expense to the State or the railroad company. Determination that the highway be altered in location and cross the railroad at grade, as shown by copy of determination on file, no part of the expense to be borne by either the State or the railroad company.

The Board adjourned.

ALBANY, OCTOBER 5, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Applications.

Application of the Buffalo and Susquehanna Railroad Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Application of the Poughkeepsie and Eastern Railway Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Reports.

In the matter of the report of the superintendent of the grade crossing bureau as to signals protecting the draw span of the Delaware and Hudson Company's railroad bridge, between Green Island and Troy, ordered hearing set down for Monday, October 16, 1899, 10 o'clock a. m., at the office of the Board, in Albany.

Report of the electrical expert of his inspection of the Ithaca Street Railway. Copy sent company, with letter, making the recommendations of the electrical expert the recommendations of the Board. Letter received from the New York Central and Hudson River Railroad in the matter of the death of Lester Grant, August 24, 1899. Ordered filed.

Report of the inspector as to blocking of frogs and switches on the New York Central and Hudson River Railroad. Ordered filed.

In the matter of the report of the inspector of his inspection of the Greenwich and Johnsonville Railway, a letter was received from the company, stating that the recommendations of the Board would have attention. Ordered filed.

In the matter of the report of the inspector of his inspection of the Fitchburg Railroad, a letter was received from the company as to rules governing the operation of the gauntleted tracks at Eagle Bridge. Ordered filed.

In the matter of the report of the inspector of his inspection of the Keeseville, Ausable Chasm and Lake Champlain Railroad, a letter was received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

In the matter of the report of the inspector of his inspection of the Otis Elevating Railway, a letter was received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

In the matter of the report of the inspector of his inspection of the Poughkeepsie and Eastern Railway, a letter was received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

A report was received from the inspector as to the subject of fires communicated by locomotive engines. Ordered copy sent to Hon. E. R. Brown (who has written the Board on this subject) and filed.

Report of the inspector of his inspection of so much of the New York, Chicago and St. Louis Railroad as is within the State of New York. Copy sent company, with letter, making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations of the Board would be complied with. Ordered filed.

Supplemental report of the electrical expert as to the operation of steam trains and electric cars on the Prospect Park and Coney Island Railroad and the Brighton Beach Railroad. Ordered filed.

Report of the inspector as to accident at grade crossing near Oneida, on the New York Central and Hudson River Railroad, on September 23, 1899. Ordered filed.

Crossings.

Report of the electrical expert of his inspection of points where the Ithaca Street Railway crosses steam railroads at grade. Ordered copy of report sent to the company, with a letter making the recommendations of the electrical expert the recommendations of the Board.

In the matter of the application of the Elmira and Seneca Lake Railway Company, under section 68 of the Railroad Law, as to crossing the tracks of the Northern Central Railway on Main street, in the village of Montour Falls, a report was received from the electrical expert of his inspection of the proposed crossing. Ordered hearing set down for Monday, October 16, 1899, 10 o'clock a. m., at the office of the Board in Albany.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad and East street, in the village of Fonda. Ordered hearing set down for Monday, October 23, 1899, 1 o'clock p. m., at Baggs Hotel, city of Utica.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing at the West Shore Railroad (its lessor) and a highway known as the Seneca Turnpike, in the town of Vernon, one-half mile east of Oneida Castle station. Ordered hearing set down for Monday, October 23, 1899, 1 o'clock p. m., at Baggs Hotel, city of Utica.

Application of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Utica and Black River Railroad (its lessor) and a highway connecting the Stittsville road and Simmons road. Ordered hearing set down for Monday, October 23, 1899, 1 o'clock p. m., at Baggs Hotel, city of Utica.

Application of the town board of the town of Islip, Suffolk county, under section 62 of the Railroad Law, in the matter of the abolishment of the Fifth street crossing (Brentwood, L. I.) of the Long Island Railroad. Ordered hearing set down for Friday, October 13, 1899, 11.30 o'clock a. m., at the Long Island Railroad station, in Brentwood.

Application of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of a grade crossing of the North Sea road and its railroad, in the village of Southampton, L. I. Ordered hearing set down for Friday, October 13, 1899, 2 o'clock p. m., at Long Island Railroad station, in the village of Southampton.

Orders.

In the matter of the petition of the town board of the town of Randolph, Cattaraugus county, under section 62 of the Railroad Law, as to abolishing the grade crossing of the Erie Railroad and the Ireland road, in said town, a determination in which has been made by this Board, plans, estimate and proposals for doing the work were approved, as shown by copy of letter on file.

In the matter of the petition of the president and trustees of the village of Randolph, Cattaraugus county, under section 62 of the Railroad Law, as to abolishing the grade crossings of the Erie Railroad and Jamestown street and Fifth avenue, in said village, plans, estimate and proposals for doing the work were approved, as shown by copy of letter on file.

The Secretary was directed to purchase metallic file cases.

In the matter of the petition of the mayor and common council of the city of Cohoes, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the railroad operated by the Delaware and Hudson Company and Ontario street, on Van Schaick Island, near the bridge over the Hudson river, the Board determined that the street shall be carried over the railroad by means of a bridge, substantially, as shown by plan attached to determination.

In the matter of the petition of the town board of the town of Madison, Madison county, under section 62 of the Railroad Law, a determination in which was made by this Board November 11, 1898, such determination was modified, as shown by order on file, to which is attached a blue print, showing the changes in location of highway to be made.

Application of the Nassau Belt Line Traction Company for a certificate under section 59 of the Railroad Law. Granted.

Application of the Buffalo and Susquehanna Railroad Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Application of the Poughkeepsie and Eastern Railway Company for approval of highway crossing signs. Granted, as shown by copy of letter on file.

Bills.

The following bills were approved:

General expenses.

J. B. Lyon Company.....	\$1 50
Harry W. Riggs.....	3 00
C. E. Argersinger.....	4 00
National Press Intelligence Co.....	13 45
Philip J. Henzel.....	11 70
J. D. Shultz (expenses, September).....	26 51
Brandow Printing Co.....	15 10
Postal Telegraph-Cable Co.....	13 34
Great Bear Spring Co.....	1 80
Chas. R. Barnes (expenses, August and September).....	251 02
Western Union Telegraph Co.....	12 07
Hudson River Telephone Co.....	21 57
	<hr/>
	\$375 06

Grade crossing expenses.

W. C. Carland	\$24 60
A. H. Sutermeister (expenses, September).....	20 15
Jas. E. Brazee (expenses, September).....	46 80
	<hr/>
	\$91 55

The Board adjourned.

KINGS PARK, L. I., OCTOBER 13, 1899—9 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the town board of the town of Smithtown, Suffolk county, under section 62 of the Railroad Law, as to the abolishment of two grade crossings of the Long Island Railroad and the road leading from Smithtown to Sunk Meadow. E. H. L. Smith, supervisor, and John F. Kelly appeared for the town board. Theodore W. Smith, John Kelly, H. C. Smith's Sons, Mr. Carlson and Eugene Keane, property owners, also appeared. A. A. Gardner appeared for the Long Island Railroad Company. After hearing the persons interested the hearing was closed.

The Board adjourned.

BRENTWOOD, L. I., OCTOBER 13, 1899—11.30 A. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the town board of the town of Islip, Suffolk county, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of a highway known as Fifth street and the Long Island Railroad, in Brentwood. Frank Parker, supervisor, and Frank E. Blacker, justice of peace, appeared for the town board. Anthony H. Creagh, Charles A. Codman, property owners, also appeared. A. C. Clark appeared for Mrs. Etta Kellane, a property owner. E. F. Howell appeared for himself, as a property owner, for Marie E. Cumming, as a property owner, and for the Brentwood Land Company. A. A. Gardner appeared for the railroad company. The property owners all opposed the abolishment of the grade crossing, and suggested that a warning bell be erected at the crossing and the underbrush obscuring the view of the railroad be cut away. After hearing the persons interested, the matter was closed.

The Board adjourned.

SOUTHAMPTON, L. I., OCTOBER 13, 1899—2 P. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad and the North Sea road, in the village of Southampton. A. A. Gardner

appeared for the company. Albert J. Post, president of the village, H. M. Howell, attorney for the village, and Walter A. Jagger, trustee of the village, appeared for the village. W. F. Howell appeared for Mrs. Annie E. Saylor. S. Ellison and U. R. Havens also appeared. The representatives of the village and the other persons appearing were all in favor of the application. No one appeared in opposition to it. After hearing evidence and arguments, the application was granted.

Orders.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad and the North Sea road, in the village of Southampton. Determination that the highway known as the North Sea road shall be carried underneath the railroad.

The Board adjourned.

BRIDGEHAMPTON, L. I., OCTOBER 13, 1899—3.30 P. M.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition by the town board of the town of Southampton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of a highway known as Butter Lane and the Long Island Railroad. Henry H. Chatfield for the applicant and for Silas R. Carwith, a property owner. E. Erastus Halsey, highway commissioner, also appeared. David T. Dickinson, Charles A. Pierson, Frank L. Bishop, James H. Rogers and Silas R. Carwith, property owners, also appeared. A. A. Gardner appeared for the Long Island Railroad Company. All persons who appeared were in favor of the application. After hearing evidence and arguments the application was granted.

Orders.

Petition of the town board of the town of Southampton, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Long Island Railroad and the highway known as Butter Lane. Determination that the highway shall be carried underneath the railroad, the undercrossing to be 22 feet in width in the clear.

The Board adjourned.

NEW YORK, OCTOBER 14, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

The Taxpayers' Alliance of the Borough of the Bronx against the Manhattan Railway Company. W. W. Niles, Jr., appeared for the complainants. Ezra A. Tuttle appeared for the Manhattan Railway Company and asked for an adjournment. The matter was adjourned until Saturday, November 18, 1899, 10 a. m., at Parlor DR, Fifth Avenue Hotel, New York city, and the hearing was peremptorily set for that time.

Oscar K. Lyle and others against the Nassau Electric Railroad Company as to withdrawal of car service on the Seventh avenue, Brooklyn line of said company, to Fulton Ferry. Oscar K. Lyle appeared for himself. C.

A. Collin appeared for the company. It appearing that the service had been resumed, the matter was closed.

G. A. Page against the Brooklyn Union Elevated Railroad Company as to rates of fare, and against the Nassau Electric Railroad Company as to transfers. G. A. Page appeared for himself. C. A. Collin appeared for the companies. The complainant having expressed himself satisfied with the explanation made by the representative of the companies, the matter was closed.

In the matter of the complaint of Charles A. Herpich against the Kings County Elevated Railway Company, as to rates of fare, a hearing which was set for this time, the complainant did not appear, and the matter was closed.

The Board adjourned.

ALBANY, OCTOBER 16, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The minutes of October 4 and 5 were read and approved.

Hearings.

Application of the Elmira and Seneca Lake Railway Company, under section 68 of the Railroad Law, as to the manner in which its railway shall cross the Elmira and Lake Ontario Railroad (leased to and operated by the Northern Central Railway), in the village of Montour Falls. Boyd McDowell and John E. Mulford for the applicant; no one in opposition. After hearing the applicant, a determination was made as shown by copy on file.

In the matter of the recommendations of this Board, as to signals to protect the draw span of the Delaware and Hudson Company's bridge across the Hudson River, between Green Island and Troy. Mr. C. D. Hammond appeared for the company.

Adjourned hearing in the matter of the re-application of the Lehigh and Lake Erie Railroad Company for a certificate under section 59 of the Railroad Law. W. S. Bissell and F. H. Platt for the applicant; S. E. Williamson and Ira A. Place for the Terminal Railway of Buffalo and the New York Central and Hudson River Railroad Company, in opposition; J. S. Rockwell appeared for the Buffalo, Hamburg and Aurora Railroad Company. After hearing evidence and arguments the hearing was closed. Briefs are to be exchanged between Mr. Williamson and Mr. Bissell within twenty days after the receipt of the stenographer's minutes and each side will have ten days after the twenty days, in which to reply to each other's briefs.

Complaints.

John Jopp against the Erie Railroad Company, as to the condition of its fences along his land. Copy sent company. Answer of company received. Copy sent complainant.

City of North Tonawanda against the Erie Railroad Company, as to its crossing of Oliver street in said city. Copy sent company. Answer of company received. Copy sent complainant, with letter, as shown by copy on file.

In the matter of the complaint of C. W. Wentz against the New York Central and Hudson River Railroad Company (Fall Brook Division), as to cessation of train service at Moreland station, which matter was closed on the minutes of October 4, a letter was received from complainant stating that the company does not stop trains 1 and 4 at Moreland, on flag. Ordered letter written complainant, as shown by copy on file, and case again closed.

Applications.

Application of the Oswego Traction Company, for consent to the issue of a first mortgage for \$100,000, and a second mortgage for \$200,000. Ordered filed.

Application of the Albany and Hudson Railway and Power Company for consent to the issue of a first mortgage for \$2,500,000. Ordered hearing set down for October 17, in New York city.

Application of the Lehigh Valley Railroad Company for approval of a standard form of highway crossing sign to be used in the future, as its present signs are replaced. Granted.

Reports.

Report of superintendent of Grade Crossing Bureau as to an accident which occurred on the Fitchburg Railroad, at Hoosick Junction, on October 8, 1899. Ordered copy sent company, with letter making the recommendations of the Superintendent of the Grade Crossing Bureau, the recommendations of this Board.

Report of the inspector, of an accident which occurred on the Auburn branch of the New York Central and Hudson River Railroad, near Auburn, September 26, 1899. Ordered filed.

Crossings.

In the matter of the petition of the Buffalo, Rochester and Pittsburgh Railway Company under section 62 of the Railroad Law, as to the abolishment of the Gould, Hedges, Underhill and Norcross crossings of its railroad, a determination in which was made by this Board December 22, 1898, the work being completed, it was ordered approved, on the report of the Superintendent of the Grade Crossing Bureau, on condition that 25 or 30 feet of additional rip rap be placed against the embankment of the old highway, immediately west of the junction of the new highway with the old highway leading to Underhill's crossing.

In the matter of the petition of the town board of the town of Leroy, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of the Buffalo, Rochester and Pittsburgh Railway by a highway at a point known as Haskins crossing, a determination in which was made by this Board December 22, 1898, the substructural work being completed, it was ordered approved, on the report of the Superintendent of the Grade Crossing Bureau.

In the matter of the petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of its railroad and two highways near the station on its railroad known as "Hardys" or "Pike," in the town of Gainesville, Wyoming county, a determination in which was made by this Board December 22, 1898, the substructural work being completed, it was ordered approved, on the report of the Superintendent of the Grade Crossing Bureau.

Orders.

Petition of the Elmira and Seneca Lake Railway Company under section 68 of the Railroad Law, as to crossing the Elmira and Lake Ontario Railroad (leased to the Northern Central Railway Company), in Main street in the village of Montour Falls. Determination as shown by copy on file.

Application of the Lehigh Valley Railroad Company for approval of a standard form of highway crossing sign to be used in replacing the signs now in use on its railroad. Ordered standard form approved.

Petition of the president and board of trustees of the village of Attica, under section 62 of the Railroad Law, as to carrying the High and West Main street crossings of the Erie Railroad in said village underneath the

said railroad. Application granted, as shown by copy of determination on file.

In the matter of the petition of the town board of the town of Liberty, Sullivan county, under section 62 of the Railroad Law, as to the abolishment of the Francisco and Hardenbergh's crossings of the New York, Ontario and Western Railway Company, a determination in which was made by this Board November 11, 1898, the Board determined that the new piece of highway to be built, running from the northerly side of the proposed overhead bridge, a distance of about 750 feet, so that it shall join the northerly Parksville road at a point about in front of the residence of James Savage.

Bills.

The following bills were approved:

General expenses.

American Express Co.....	\$5 80
National Express Co.....	8 55
United States Express Co.....	5 52
Stuart G. Speir.....	35 30
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	\$55 17
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Grade crossing expenses.

W. & L. E. Gurley	\$3 20
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The Board adjourned.

NEW YORK, OCTOBER 17, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Application of the Albany and Hudson Railway and Power Company for consent to the issue of a first mortgage for \$2,500,000. C. H. Werner appeared for the applicant. Application granted.

Orders.

Application of the Albany and Hudson Railway and Power Company for consent to the issue of a first mortgage for \$2,500,000. Granted.

The Board adjourned.

UTICA, OCTOBER 23, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Petition of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, for the closing and discontinuance of the crossing of the Utica and Black River Railroad (leased to the New York Central and Hudson River Railroad Company) by the highway connecting the Stittville road and Simmons road about one-half mile east of Marcy station. J. T. Trowbridge for the company; J. W. Potter, supervisor, and Benjamin Sanders, highway commissioner, appeared for the

town; Luther Simmons, a property owner, also appeared; Edward M. Marson also appeared. After hearing evidence and arguments, the hearing was adjourned to a date to be hereafter fixed, at Utica.

Petition of the New York Central and Hudson River Railroad Company, under section 62 of the Railroad Law, as to the closing and discontinuance of the grade crossing of its railroad by East street, in the village of Fonda. J. T. Trowbridge for the company; J. S. Sitterly for the village of Fonda and for William H. Wilson, Elizabeth McIntyre and Riley Bowditch, property owners; H. B. Cushney for George Jones, James H. Neahr, John Fahey, Alfred McLaughlin and L. H. Shipman, property owners. After hearing arguments, the hearing was adjourned to a date to be hereafter fixed, at the old court house, Fonda.

Petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, asking the Board to determine that a highway crossing near its station of Pavilion Center, in the town of Pavilion, Genesee county, shall be changed from grade and the highway carried underneath the railroad. John S. Rockwell for the company; F. S. Randall for the town of Pavilion. After hearing evidence and arguments, the town withdrew opposition, on condition that a plan should be made by this Board, fixing the grade of the highway at the crossing not more than a foot below the present grade of the highway west of the crossing and the space between abutments to be twenty feet. The matter was held open and the Board is to have a plan of an undercrossing made.

Petition of the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, under section 62 of the Railroad Law, for the closing and discontinuance of a highway crossing of the West Shore Railroad by Seneca turnpike, in the town of Vernon, Oneida county, about one-half mile east of Oneida Castle station. J. T. Trowbridge for the company; no one appeared in opposition. After hearing evidence, the hearing was closed.

The Board adjourned.

UTICA, OCTOBER 24, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

The Board inspected the crossings near Marcy station, on the Utica and Black River Railroad; the crossing near Oneida Castle, on the West Shore Railroad, and the East street crossing, in the village of Fonda, hearings in which, under section 62 of the Railroad Law, were held at Utica on October 23. The Board also inspected crossings at Remsen, on the Utica and Black River Railroad, in which application is proposed to be made for abolishment. The Board also inspected the crossing of West Main street, in the city of Johnstown, in which application under section 62 of the Railroad Law is pending.

The Board adjourned.

ALBANY, OCTOBER 30, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn.

Hearings.

Application of the Chatham and Lebanon Valley Railroad for consent to the issue of a first mortgage to the amount of \$350,000, laid before the Board for the first time to-day. A. B. Gardenier for the applicant. Granted.

Application of the Warren County Railway for a certificate under section 59 of the Railroad Law. J. A. Kellogg and Thomas O'Connor for the

applicant; E. C. Low, for the Lake House property in favor of the application; Lewis Carr for the Delaware and Hudson Company, and S. Brown for the Lake George and Warrensburg Plank Road Company, in opposition. Edward M. Shepard, of the Lake George Association, appeared by Mr. Carr, in opposition, and asked for an adjournment. After hearing evidence and arguments, a recess in this hearing was taken until 2 p. m.

In the matter of the petition of the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, under section 62 of the Railroad Law, for the closing and discontinuance of a highway crossing of the West Shore Railroad by the Seneca turnpike, in the town of Vernon, Oneida county, D. C. Burke appeared for Mrs. Fred Polley and asked that he be given an opportunity to be heard. The Board determined that he should have an opportunity to be heard at a date to be hereafter fixed.

AFTER RECESS.—2 P. M.

The hearing in the matter of the application of the Warren County Railway, under section 59 of the Railroad Law, was resumed. Appearances as at the morning session. After hearing evidence and arguments, the hearing was adjourned until Friday, November 17, at 10 o'clock a. m., at the office of the Board in Albany.

Orders.

Application of the Chatham and Lebanon Valley Railroad for consent to the issue of a first mortgage to the amount of \$350,000. Granted.

The Board adjourned.

ALBANY, OCTOBER 31, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. The minutes of October 13 (four sessions), October 14, October 16, October 17, October 23 and October 24 were read and approved.

Complaints.

In the matter of the complaint of B. Oakley Baldwin against the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company, relative to alleged dangerous condition of a portion of track of said railway company, a letter was received from the company, stating that the recommendations of the Board would be complied with. Closed.

H. W. Albert against the New York, Ontario and Western Railway Company, as to alleged wrongful charge for storage of baggage. Copy sent company.

In the matter of the complaint of William Hunt of the town of Cortlandville, Cortland county, against the Lehigh Valley Railroad, as to the condition of fences, a letter was received from the company, stating that the fences will be repaired. Closed.

E. R. Van Wagenen against the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, as to train service to Fullers Station. Copy sent company. Answer of company received. Copy sent complainant.

John Jopp against the Erie Railroad Company, as to the condition of fences along his land. Answer of company received, stating that instructions had been given to have the fences repaired. Closed.

City of North Tonawanda against the Erie Railroad Company, as to its crossing of Oliver street in said city. Letter and plan received from company as to proposed changes. Letter written city, as shown by copy on file, and reply of city received. Ordered filed.

F. Eugene Lawton of Auburn, against the Rome, Watertown and Ogdensburg Railroad (New York Central and Hudson River Railroad Company lessee), as to alleged unsafe crossing in Oswego. Ordered copy sent company.

Applications.

Application of the Newburgh Electric Railway Company for approval of the use of the overhead electrical trolley system on a proposed extension. Granted.

Application of the New York Central and Hudson River Railroad Company, lessee of the West Shore Railroad, and the Dunkirk, Allegheny Valley and Pittsburgh Railroad, for approval of highway crossing signs. Ordered granted, as shown by copy of letter on file.

Application of the Oswego Traction Company for consent to the issue of a first mortgage for \$100,000, and a second mortgage for \$200,000. Ordered hearing set down for Friday, November 17, at 10 a. m., at the office of the Board in Albany.

Application of the New York Central and Hudson River Railroad Company for approval of an interlocking switch and signal system at Alabama street, Buffalo, where its railroad crosses the Erie Railroad. Ordered filed.

Reports.

Report of the inspector, of his inspection of the Bennington and Hoosick Valley Railway. Ordered copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the inspector, of his inspection of the Ulster and Delaware, Stony Clove and Catskill Mountain, and Kanterskill and the Hunter Branch railroads. Copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board. Letter received from the company, stating that the recommendations will be complied with.

A letter was received from the Manhattan Railway Company, stating that the recommendations of the Board, made on the report of its electrical expert and of its inspector, of their inspections of the structure of said company, are being complied with. Ordered filed.

A letter was received from the Ithaca Street Railway Company, stating that the recommendations of this Board, made upon the reports of the electrical expert of the Board, of his inspection of the Ithaca Street Railway and its crossings of steam railroads, would be complied with. Ordered filed.

Report of the inspector, of his investigation of an accident occurring on the railroad operated by the Delaware and Hudson Company, at Putnam, on the New York and Canada Railroad, October 5. Ordered copy sent company, with a letter making the recommendations of the inspector the recommendations of this Board.

Report of the Superintendent of the Grade Crossing Bureau, of his investigation of an accident which occurred on the New England Division of the New York, New Haven and Hartford Railroad, at Hopewell Junction, October 20. Ordered copy sent the company, with a letter making the recommendations of the Superintendent of the Grade Crossing Bureau the recommendations of this Board.

Certain correspondence between this Board and the company relative to hand and lantern signals to be used by employees of the Delaware, Lackawanna and Western Railroad Company, was submitted to the Board. Ordered filed.

Crossings.

In the matter of the abolishment of the East avenue grade crossing of the New York Central and Hudson River Railroad, in the village of Shortsville, a determination in which was made by this Board August 10, 1898, the Board, upon the report of the Superintendent of the Grade Cross-

ing Bureau, approved the work, in accordance with section 65 of the Railroad Law.

In the matter of the abolishment of the grade crossing of the Western New York and Pennsylvania Railway and the Crosby road, in the town of Holland, Erie county, a determination in which was made by this Board December 15, 1898, the completed work was ordered approved, on the reports of the Superintendent of the Grade Crossing Bureau and of James E. Brazee, an inspector for the Board.

Petition of the town board of the town of West Seneca, in the county of Erie, under section 62 of the Railroad Law, for the abolishment of the grade crossing of the Abbott road and the Terminal Railway of Buffalo. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossing of its railroad and the Delaware Plank road, about one-third of a mile westerly of the Grand Hotel station on said railroad. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossings of its railroad by highways at four points near Brown's station, two, easterly and two westerly of said station. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of two grade crossings of its railroad and a highway about half a mile east of the Bolceville station on said railroad, which crossings are known as the Davis crossings. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of two grade crossings of its railroad by the Ulster and Delaware Plank road, at points about one-half a mile east of its West Hurley station. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of the grade crossings of its railroad at two points known as McKelvey's crossings about midway between West Hurley and Olive Branch. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of a highway grade crossing of its railroad by the highway leading to and from Pine Hill, about one-third of a mile east of its Grand Hotel station. Ordered filed.

Petition of the Ulster and Delaware Railroad Company, under section 62 of the Railroad Law, for the abolishment of two highway grade crossings of its railroad, known as Shorts crossings, between the stations on its railroad known as Mount Pleasant and Phoenicia. Ordered filed.

Petition of the city of Cohoes, under section 61 of the Railroad Law, as to the manner in which High street shall cross the New York Central and Hudson River Railroad, Troy and Schenectady Branch. Ordered filed.

Orders.

Application of the New York Central and Hudson River Railroad Company for approval of highway crossing signs on the railroads of its lessors, the West Shore, and the Dunkirk, Allegheny Valley and Pittsburgh Railroads. Granted, as shown by letter on file.

Petition of the town board of the town of Smithtown, Suffolk county, under section 62 of the Railroad Law, as to the abolishment of two grade crossings of the Long Island Railroad east of Kings Park station. Determination, as shown by copy on file, abolishing the crossings.

Petition of the town board of the town of Islip, as to the abolishment of a grade crossing of the Long Island Railroad and Fifth street, in the village of Brentwood. Determination of no changes but recommendation to railroad company, as shown by copy on file, that an electric bell shall be erected at the crossing, and the trees and brush be cut at the intersecting angles.

Application of the Newburgh Electric Railway Company for approval of the use of the overhead electrical trolley system on a proposed extension. Granted.

Bills.

The following bills were approved:

General account.

Street Railway Publishing Company.....	\$4 00
Harry W. Riggs	3 00
Ashley W. Cole (expenses).....	203 00
E. C. McEntee (expenses).....	5 00
Catharine T. Byrne (stenog. services).....	24 80
	<hr/>
	\$239 80

Grade crossing account.

W. and L. E. Gurley	\$4 30
W. and L. E. Gurley	1 32
Ashley W. Cole (expenses).....	90 00
E. C. McEntee (expenses).....	40 00
A. H. Sutermeister (expenses).....	29 30
	<hr/>
	\$164 92

The Board adjourned.

ALBANY, NOVEMBER 16, 1899.

The Board met pursuant to adjournment. Present Commissioners Cole and Dunn. Commissioner Baker absent, conducting street car brake test in New York city.

The minutes of the meetings of October 30 and 31 were read and approved.

Complaints.

Norman P. Heffley against the Brooklyn Union Elevated Railroad Company, in the matter of stations. A hearing in this matter was set for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city, but the complainant notified the board that he did not desire a hearing and the case was closed.

John Costello, of Brooklyn, against the Brooklyn and Brighton Beach Railroad Company, as to abandonment of station at Sterling Place, Brooklyn. Copy sent company, and hearing set for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city. In this matter a letter was also received from E. W. Hazazer, complaining of the abandonment of the stations of this railroad at Sterling Place and at Dean street, Brooklyn. Since sending the company a copy of Mr. Costello's complaint, it has made application, under section 34 of the Railroad Law, for leave to abandon these stations at Sterling Place and Dean street, Brooklyn.

Residents of Bath Beach and other places in the Thirtieth Ward, Borough of Brooklyn, New York city, against the Brooklyn Heights Railroad Company, relative to transfers and lack of car service. Copy sent company. Ordered hearing set down for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city.

George Albert Allin, of Brooklyn, against the Brooklyn Heights Railroad Company, as to transfers. Copy sent company. Ordered hearing set down for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city.

Luigi Galvani Doane against the Brooklyn Union Elevated Railroad Company, as to hand railings and car service. Copy sent company. Ordered hearing set down for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city.

Residents of Brooklyn against the Brooklyn Heights Railroad Company, as to lack of car service. Copy sent company. Ordered hearing set down for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city.

In the matter of complaints as to the condition of fences on the Lehigh Valley Railroad, on its Elmira, Cortland and Northern Branch, a report was received from Commissioner Baker. Copy sent company, with a letter, making the recommendations of Commissioner Baker the recommendations of this Board.

Charles F. Yearke against the Lehigh Valley Railroad Company, as to the use of "coal jimmies." Report of an inspector for the Board as to the matter. Ordered letter written the company, stating that from the report of the inspector, it appears that the company has violated the law (chapters 543 and 544 of the laws of 1893), and that it must cease such violation.

Residents of Vernon against the West Shore Railroad (New York Central and Hudson River Railroad Company lessee). Closed.

In the matter of the complaint of A. Bird against the Delaware and Hudson Canal Company (case No. 1416) as to toilet facilities at station of said company at Sidney, a letter was received from complainant, stating that the promise of the company, in its letter dated October 4, 1894, to supply such facilities, has not been kept. Copy sent the company. Letter received from the company, stating that directions had been given to have such facilities at the station supplied forthwith. Copy sent complainant, with letter asking him to inform the Board if such facilities are supplied. Closed.

W. H. Farr, of Big Flats, highway commissioner, against the Erie Railroad Company, as to condition of an overhead crossing of said railroad. Copy sent the company.

Frederick H. Cowles against the New York and Ottawa Railroad Company, alleging dangerous condition of its railroad. Report of the inspector of his inspection of said railroad. Copy sent company, with letter, making the recommendations of the inspector the recommendations of this Board. Copy of inspector's report also sent to complainant, with a letter, as shown by copy on file.

John R. McLaren, of West Sand Lake, against the Troy and New England Railroad Company, as to lack of car service. Copy sent company.

Residents of Schenectady against the Schenectady Street Railroad Company, as to the abandonment of a portion of its railroad. Copy sent company.

F. Eugene Lawton, of Auburn, against the Rome, Watertown and Ogdensburg Railroad (New York Central and Hudson River Railroad Company lessee), as to alleged unsafe crossing in Oswego. Answer of company received. Copy sent complainant.

City of North Tonawanda against the Erie Railroad Company, as to condition of the crossing of Oliver street, in said city. Reply of complainants to answer of company. Ordered that the inspector make an inspection of the point in question and report.

E. R. Van Wagonen against the West Shore Railroad Company, as to train service to Fullers Station. Closed.

Gilbert M. Vandervoort against the Lehigh Valley Railroad Company, as to cattle guards. Closed.

Applications.

Application of the Brooklyn and Brighton Beach Railroad Company, under section 34 of the Railroad Law, for consent to the abandonment of its Dean street and Sterling Place stations in Brooklyn. Ordered hearing set down for Saturday, November 18, 1899, 1 o'clock p. m., at the Fifth Avenue Hotel, New York city.

Application of the Union Station Railway Company of Buffalo for a certificate under section 59 of the Railroad Law. Ordered filed.

Application of the Boston and Albany Railroad Company, under chapter 544 of the laws of 1893, for an extension of time within which to entirely

equip its freight cars with automatic couplers, if any extension of time is granted to any railroad company by this Board. Carry on file.

Application of the Northern Central Railroad Company for approval of highway crossing signs of a diamond shaped pattern. Ordered diamond shaped pattern approved. The application of this company for approval of highway crossing signs of a different form was not acted upon, inasmuch as the diamond form of sign only is used in this state, as shown by memorandum from Commissioner Baker filed with the papers.

In the matter of the application of the Buffalo, Attica and Arcade Railroad Company for approval of highway crossing signs, a letter was received from the company, stating that it would proceed to erect signs of the style described by this Board in its letter dated September 25, 1899.

Reports.

In the matter of the report of an Inspector of this Board as to accident which occurred at Hopewell Junction, on the New York, New Haven and Hartford Railroad (New England Division), October 18, 1899, a letter was received from the company, stating that it had given instructions to the general superintendent of each western district of its railroad to note recommendations of the Board and to immediately investigate the situation with the view of complying with the recommendations. Ordered filed.

Crossings.

In the matter of the application of the town board of the town of Madison for the abolishment of a grade crossing of the New York, Ontario and Western Railway, near Solsville, a report as to the progress of the work was received from the superintendent of the grade crossing bureau. Ordered filed.

In the matter of the application of the town board of the town of Guilford, Chenango county, as to the abolishment of the Roots and Milk Station grade crossings of the New York, Ontario and Western Railway, a report as to the progress of the work was received from the superintendent of the grade crossing bureau. Ordered filed.

In the matter of the application of the village of Randolph and the town of Randolph, Cattaraugus county, as to the abolishment of the grade crossing in the village, of the Erie Railroad, and Jamestown street and Fifth avenue, and in the town, of the Erie Railroad, and the Ireland road, a report as to the progress of the work was received from the superintendent of the grade crossing bureau. Ordered filed.

In the matter of the application of the New York Central and Hudson River Railroad Company as to the abolishment of two grade crossings of the Mohawk and Malone Railway, its lessor, by the Blue Pond road, in the town of Harletstown, Franklin county, a letter was received from the company, asking that the work be inspected for approval. Report of the superintendent of the grade crossing bureau of his inspection of the work, approving the same. Ordered work approved.

In the matter of the application of the New York Central and Hudson River Railroad Company as to the abolishment of a grade crossing of its railroad by a highway west of Rector's crossing, Schenectady county, a letter was received from the company, asking for approval of the work. On the report of the superintendent of the grade crossing bureau, ordered work approved.

In the matter of the application of the town board of the town of Scho-dack, Columbia county, under section 62 of the Railroad Law, as to the abolishment of grade crossings of the Boston and Albany Railroad by Pucker street, Boom Barrack road and Brookview avenue, Brookview, the bid of Leahey & Shufelt for the brick work and concrete for floor of the bridge, and the bid of Warren Brothers for the asphalt for floor of the bridge, were ordered approved.

Petition of the Long Island Railroad Company, under section 62 of the Railroad Law, for the abolishment of grade crossings of its railroad by highways known as the Neck road and Second avenue, a short distance east of its station at Bay Shore, Suffolk county, the petition being that the Neck road crossing be closed and discontinued and the travel diverted to Second avenue, the Second avenue crossing to be constructed over the petitioner's railroad. Ordered filed.

In the matter of the petition of the city of Elmira, under section 62 of the Railroad Law, as to the abolishment of a grade crossing of the Erie Railroad and Woodlawn avenue, in said city, the bid of Whalen & Higgins for the substructural work, and the bid of the Elmira Bridge Company for the superstructure, were ordered approved.

Orders.

Application of the Northern Central Railway for approval of diamond shaped highway crossing signs. Ordered approved.

In the matter of the application of the city of Johnstown, under section 62 of the Railroad Law, for the abolishment of the grade crossing of West Main street and the Fonda, Johnstown and Gloversville Railroad. Determination, that the grade crossing should not be abolished, but that certain changes should be made, as shown by copy on file.

Bills.

The following bills were approved:

General expenses.

National Express Co.....	\$8 80
American Express Co.....	9 96
United States Express Co.....	6 88
Brandow Printing Co.....	73 39
Susan C. Oakley.....	8 50
Frank M. Baker (expenses).....	76 88
	<hr/>
	\$184 41
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Grade crossing expenses.

I. H. Feldman.....	\$0 55
Western Union Telegraph Co.....	6 65
Hudson River Telephone Co.....	41 35
Great Bear Spring Co.....	2 40
Postal Telegraph Cable Co.....	20 18
George W. Hawkins.....	2 50
John S. Kenyon (postal cards).....	10 00
Jas. E. Brazee (expenses).....	39 40
Frank M. Baker (expenses).....	30 00
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	\$153 03
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The Board adjourned.

ALBANY, NOVEMBER 17, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Dunn. Commissioner Baker absent conducting street car brake test in New York city.

Hearings.

Application of the Oswego Traction Company for consent to the issue of a first mortgage for \$100,000 and a second mortgage for \$200,000. S. M. Coon appeared for the applicant. Application granted.

Application of the Greenwich and Schuylerville Electric Railroad for approval of an increase of its capital stock from \$200,000 to \$500,000 (laid before the Board for the first time to-day. Joseph A. Powers appeared for the applicant. Application granted.

Adjourned hearing in the matter of the application of the Warren County Railway Company for a certificate under section 59 of the Railroad Law. J. A. Kellogg and Thomas O'Connor for the applicant. S. Brown for the Lake George and Warrensburg Plank Road Company, and Edward M. Shepard for the Lake George Association in opposition. After discussion, the hearing was adjourned until Saturday, December 2, 1899, 11 o'clock a. m., at the office of the Board in Albany.

The Board took a recess until 2 p. m.

AFTER RECESS—2 P. M.

Hearings.

In the matter of a report of an inspector of this Board as to an accident which occurred on the railroad operated by the Delaware and Hudson Company, at Putnam, October 5, 1899, C. D. Hammond appeared before the Board as to the recommendation of the Board that the company use the double order system of telegraphic train orders. The matter was referred to the inspector of the Board.

Orders.

Application of the Oswego Traction Company for consent to the issue of a first mortgage for \$100,000 and a second mortgage for \$200,000. Granted.

Application of the Greenwich and Schuylerville Electric Railroad for approval of an increase of its capital stock from \$200,000 to \$500,000. Granted.

The Board adjourned.

NEW YORK, NOVEMBER 18, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole, Baker and Dunn.

Hearings.

Adjourned hearing in the matter of the complaint of the Tax Payers' Alliance of the Borough of the Bronx against the Manhattan Railway Company. W. W. Niles, Jr., and A. C. Hottenroth for complainants. Julian T. Davies for the company. After hearing evidence and arguments, the hearing was adjourned until Friday, November 24, 1899, 10 o'clock a. m., at the Fifth Avenue Hotel, New York city.

John Costello, of Brooklyn, against the Brooklyn and Brighton Beach Railroad Company, as to abandonment of station at Sterling Place, Brooklyn. John Costello appeared for himself. C. A. Collin and C. L. Rossiter appeared for the company. The matter of the application of the company, under section 34 of the Railroad Law, as to the abandonment of its stations at Sterling Place and Dean street, Brooklyn, was also heard. The same persons appeared. The hearings in both matters were adjourned to a date to be hereafter fixed.

The complaints of the residents of Bath Beach and other places in the Thirtieth Ward, Borough of Brooklyn, New York city, and George Albert

Allin, of Brooklyn, and of residents of Brooklyn, against the Brooklyn Heights Railroad Company, and of Luigi Galvani Doane against the Brooklyn Union Elevated Railroad Company, were called and were heard concurrently. Harry A. Hanbury, George L. Allin and George Albert Allin appeared for some of the complainants. Andrew F. Van Thun and Walter L. Durack appeared for the Thirtieth Ward Improvement Association. Daniel Monyhan appeared for the West End Board of Trade. Luke D. Stapleton appeared for the corporation counsel of the city of New York. James P. Farrell appeared for the Bay Ridge and Fort Hamilton Citizens' Association. Theodore Witte appeared for the West End Board of Trade as attorney. Harris K. Smith appeared for the citizens of Corona. J. P. Sloan appeared for the Seventeenth Ward Board of Trade of Brooklyn. All of the above appeared for complainants. Frank Bailey, William H. Reynolds and Wm. J. McGohle also appeared as non-complainants. W. F. Sheehan, C. A. Collin and C. L. Rossiter appeared for the company. After hearing evidence and arguments, the hearing was adjourned until Saturday, November 25, 1899, 10 o'clock a. m., at the Old Common Council Chamber, City Hall, Brooklyn.

Adjourned hearing in the matter of the application of the Greenbush and Nassau Electric Railway Company, under section 68 of the Railroad Law, for a determination as to how its railroad shall cross the Boston and Albany Railroad at a point near Niverville and at a point near Rensselaer. C. A. Collin appeared for the applicant. No one in opposition. An agreement between the companies as to the crossing was filed with the Board.

The Board adjourned.

MIDDLETOWN, NOVEMBER 21, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

Hearings.

Application of the city of Middletown, under section 62 of the Railroad Law, as to the abolishment of the grade crossing of Genung street and the Erie Railroad and the Middletown, Unionville and Water Gap Railroad, leased to the New York, Susquehanna and Western Railroad Company. John L. Wiggins, corporation counsel, Charles E. Ducollon, George W. O'Neill, John J. Wood and Charles E. Gardiner, the railroad committee of the common council, appeared for the city. Joseph Merritt appeared for the Erie Railroad Company. H. E. Gilpin, superintendent, appeared for the New York, Susquehanna and Western Railroad Company. After hearing evidence and arguments, the hearing was closed, but the matter was held open until December 20, to await a report from the Erie Railroad Company as to claims of property owners.

Application of the Lehigh and Hudson River Railroad Company, under section 62 of the Railroad Law, for the abolishment of a grade crossing of its railroad by the Bellvale road, in the town of Warwick. Grinnell Burt for the applicant. Ira A. Smith appeared for the town board in favor of the application. Washington Wood, a property owner, also appeared. After hearing evidence and arguments, the hearing was closed and the matter held open to receive proofs of publication of notice of hearing.

The Board adjourned.

NEW YORK, NOVEMBER 24, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

Hearings.

Adjourned hearing in the matter of the Tax Payers' Alliance of the Borough of the Bronx against the Manhattan Railway Company. W. W. Niles, Jr., for complainants. W. H. Godden appeared for Julian T. Davies, attorney for the company, and explained that Mr. Davies was detained in Albany in a matter in the Court of Appeals. After some discussion, by consent of counsel on both sides, the hearing was adjourned until Saturday, December 9, 1899, 10 o'clock a. m., at Parlor DR, Fifth Avenue Hotel, New York city. The Board agreed to go over unbuilt portions of the routes of the Suburban Railway and the New York, Fordham and Bronx Railway, on Wednesday, November 29, 1899, in company with representatives of complainants and the company.

Bills.

The following bill was approved:

Charles R. Barnes (expenses)..... \$127 35

The Board adjourned.

BROOKLYN, NEW YORK CITY, NOVEMBER 25, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

Hearings.

The adjourned hearing in the matter of the complaint of residents of Bath Beach and other places in the Thirtieth Ward, Brooklyn, and of George Albert Allin, of Brooklyn, and of residents of Brooklyn, and of Luigi Galvani Doane, against railroads operating in Brooklyn, which was to have taken place to-day, was further adjourned, by consent of counsel representing the company and complainants, until Saturday, December 2, 1899, 10 o'clock a. m., at the rooms of the Court of Special Sessions, in the City Hall, Brooklyn, New York city.

Orders.

Application of the Greenbush and Nassau Electric Railway Company, under section 68 of the Railroad Law, for a determination as to how its railroad shall cross the Boston and Albany Railroad at a point near Niverville and at a point near Rensselaer. Determination that the applicant's railroad shall cross underneath the Boston and Albany Railroad near Niverville, and that it shall cross above the Boston and Albany Railroad near Rensselaer.

It was ordered that Albert L. Judson be appointed accountant at a salary at a rate of \$2,500 a year.

The Board adjourned.

BROOKLYN, DECEMBER 2, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

Hearings.

Adjourned hearing in the matter of complaints of residents of Brooklyn, New York city, against the Brooklyn Heights Railroad Company, Brooklyn Union Elevated Railroad Company and the Kings County Elevated

Railroad Company. Luke D. Stapleton appeared for the corporation counsel of the city of New York. Andrew S. Van Thun and Walter L. Durack appeared for the Thirtieth Ward Improvement Association. Frederick H. Cook appeared for residents of Borough Park. W. F. Sheehan, C. A. Collin and C. L. Rossiter appeared for the companies. After hearing evidence and arguments, a recess was taken until 1:30 p. m.

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AFTER RECESS—1:30 P. M.

The hearing was resumed. After hearing evidence and arguments further, the matter was held open. There is not to be another oral hearing, but the companies may submit documents to the Board, furnishing Mr. Durack with copies. The Board determined that it would meet at Sixty-fifth street and Third avenue, at 7 a. m., on the morning of Thursday, December 14, to inspect the method of transfer from the surface cars to the Brooklyn Union Elevated Railroad. W. J. McGohie and W. D. C. Boggs appeared as non-complainants.

Residents of Flushing and Corona against the Brooklyn Heights Railroad Company, as to its methods of operation. Joseph D. Brockway appeared for complainants. W. F. Sheehan, C. A. Collin and C. L. Rossiter appeared for the company. After hearing evidence and arguments, the hearing was adjourned until 2:30 p. m., Tuesday, December 5, at the room of the Court of Special Sessions, City Hall, Brooklyn.

The Board adjourned.

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BROOKLYN, DECEMBER 5, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

Hearings.

Adjourned hearing in the matter of the complaint of residents of Flushing and Corona against the Brooklyn Heights Railroad Company, as to its method of operation. Joseph D. Brockway appeared for the complainants. John L. Wells appeared for the company. After hearing evidence and arguments, the hearing was held open pending the submitting of affidavits by both sides and the filing of franchises asked for by Mr. Brockway; briefs to be exchanged and filed with the Board by December 18.

The Board adjourned.

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BROOKLYN, DECEMBER 6, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

The Board, at 7 a. m., inspected the method of transfer from the surface line to the elevated line at Sixty-fifth street and Third avenue, Brooklyn, in company with representatives of complainants, in the matter of the complaint of residents of Brooklyn against the Brooklyn Heights Railroad Company, and in company with representatives of the company. The Board afterward proceeded to Flushing and Corona over the lines operated by the Brooklyn Heights Railroad Company, in the matter of the complaint of residents of Flushing and Corona against said company, in company with representatives of the complainants and of the company.

The Board adjourned.

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ALBANY, DECEMBER 8, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

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Hearings.

Application of the Saratoga Traction Company for consent to the issue of a mortgage for \$300,000, laid before the Board for the first time to-day. John L. Henning appeared for the applicant. Granted.

Application of the Raquette Lake Railway Company for consent to the issue of a mortgage for \$250,000, laid before the Board for the first time to-day. C. E. Snyder appeared for the applicant. Granted.

Complaints.

Water Board of the city of Auburn against the Auburn City Railway Company closed.

Crossings.

In the matter of the petition of the Buffalo, Rochester and Pittsburgh Railway Company, under section 62 of the Railroad Law, as to the Abbatt Road crossing of its railway, near its Windom station, a determination in which was made by this Board on June 14, 1899, that the Abbatt Road should be carried under the railway, the Board approved the proposal, for doing the substructural work, of Dwyer and Huntington, whose proposal is \$7,210, and the Board approved the proposal, for the superstructure, of the Buffalo Bridge Company, whose proposal is \$1,700.

Adjourned hearing in the matter of the application of the Warren County Railway for a certificate under section 59 of the Railroad Law. J. A. Kellogg and Thomas O'Connor for the applicant. S. Brown for the Lake George and Warrensburg Plank Road, L. E. Carr for the Delaware and Hudson Company and Edward M. Shepard for the Lake George Association and specially for Henry W. Hayden, in opposition. After consultation between the applicant and opponents, it was agreed that the hearing should be adjourned, without the taking of testimony, to the court house in Caldwell, Friday, December 29, 1899, at 11.30 o'clock a. m. It was also agreed that engineers of the applicant company and of this Board and an engineer for Mr. Shepard should meet at Caldwell, on Thursday, the 14th inst., at 11.30 o'clock a. m., to consult and prepare a map showing the route of the company to be not on the plank road or in highways, as far as possible.

Orders.

Application of the Saratoga Traction Company for consent to the issue of a mortgage for \$300,000. Granted.

Application of the Raquette Lake Railway Company for consent to the issue of a mortgage for \$250,000. Granted.

Bills.

The following bills were approved:

General expenses.

Wm. McNeilly (postage stamps).....	\$100 00
Harry W. Riggs.....	4 00
Hudson River Telephone Co.....	30 20
J. D. Shultz (expenses).....	51 50
Hitchcock Darling & Co.	10 00
Hitchcock Darling & Co.	10 00
Stuart G. Speir.....	2 05
Great Bear Spring Co.....	1 80
National Express Co.....	4 55
American Express Co.....	4 75
United States Express Co.....	12 14
Jennie A. Kinney (typewriting).....	3 00

MINUTES OF THE BOARD.

645

Western Union Telegraph Co.....	\$8 07
A. B. Van Gaasbeck.....	341 13

	\$583 28
E. C. McEntee (expenses).....	50 00
	<u>\$633 28</u>

Grade crossing expenses.

W. and L. E. Gurley	\$22 62
A. H. Sutermeister (expenses).....	48 05
	<u>\$70 67</u>

Electrical expert.

Charles R. Barnes (Oct. expenses).....	\$127 35
Charles R. Barnes (Nov. expenses).....	106 45
	<u>\$235 80</u>

The Board adjourned.

NEW YORK, DECEMBER 9, 1899.

The Board met pursuant to adjournment. Present, Commissioners Cole and Baker.

Hearings.

Adjourned hearing in the matter of the complaint of the Taxpayers' Alliance of the Borough of the Bronx against the Manhattan Railway Company. W. W. Niles, Jr., and A. C. Hottenroth for complainants; Ezra A. Tuttle for the company. After hearing evidence and arguments, the hearing was closed. It was decided that the Board should consider matters to be submitted to it by the company tending to show that the company is making progress in connection with the extension of its line northward from One Hundred and Seventy-seventh street and Tremont avenue; if then, the Board desires the co-operation of a committee of the complainants' counsel, it shall so signify to the railroad company and endeavor to secure the admission of such committee to examine the same matters as to the progress being made.

The Board adjourned.

NEW YORK, DECEMBER 15, 1899.

The Board met pursuant to adjournment, Present, Commissioners Cole and Baker.

Hearings.

Application of the New York Central and Hudson River Railroad Company for approval of the Board of an increase of its capital stock from \$100,000,000 to \$115,000,000, laid before the Board for the first time to-day. Samuel E. Williamson and Ira A. Place appeared for the applicant. Application granted.

Orders.

Application of the New York Central and Hudson River Railroad Company for approval of an increase of its capital stock from \$100,000,000 to \$115,000,000. Granted.

The Board adjourned.

ALBANY, DECEMBER 22, 1899.

The Board did not meet in Albany on this date, as it had intended, inasmuch as it was engaged in Brooklyn, in the matter of the complaint of residents of Brooklyn against the street and elevated railroads of that city. It, however, delegated to its secretary, under section 156 of the Railroad Law, authority to hold a hearing in the matter of the petition of the town of West Seneca, Erie county, under section 62 of the Railroad Law, for a determination that the grade crossing of the Terminal Railway of Buffalo by a highway known as the Abbatt road, in said town, should be changed from grade and the highway carried underneath the railroad. The secretary held this hearing. John S. Rockwell appeared for the petitioner; F. A. Harrington for the Terminal Railway of Buffalo. After hearing evidence, the hearing was closed, but the matter was held open.

Cases Pending Before the Board of Railroad Commissioners, December 18, 1899.

Complaints.

R. Daniel Krowerath v. Long Island Railroad Company, in matter of dangerous curve.

Taxpayers Alliance Borough of Bronx v. Manhattan Elevated Railway, in matter of extension of railway according to charter of company.

H. W. Albert v. New York, Ontario and Western Railway Company, in matter of storage charges on baggage.

F. Eugene Lawton v. Rome, Watertown and Ogdensburg Railroad Company (New York Central and Hudson River Railroad Company lessee) in matter of crossing.

John Costelloe v. Brooklyn and Brighton Beach Railroad Company, in matter of discontinuance of station.

George Albert Allin v. Brooklyn Heights Railroad Company, in matter of transfers.

Luigi Galvani Doane v. Brooklyn Union Elevated Railroad Company, in matter of train service, guard rails, etc.

Residents of Brooklyn v. Brooklyn Heights Railroad Company, in matter of train service.

Charles F. Yearke v. Lehigh Valley Railroad Company, in matter of coal jimmies.

W. H. Farr v. Erie Railroad Company, in matter of bridge, over crossing.

Frederick H. Cowles v. New York and Ottawa Railroad Company, in matter of unsafe condition of road.

John R. McLaren v. Troy and New England Railroad Company, in matter of change of time table.

Residents of Schenectady v. Schenectady Street Railway Company, in matter of not running cars over entire line of road.

Residents of Bath Beach v. Brooklyn Heights Railroad Company, in matter of operation of street surface and elevated roads.

Residents of Rochester v. Rochester Railway Company, in matter of car service.

Residents of Flushing and Corona v. Brooklyn Heights Railroad Company, in matter of fare and transfers.

George H. Maxwell v. Herkimer, Mohawk, Illion and Frankfort Electric Railway Company, in matter of overcrowding of cars.

Application for approval of crossing signs.

Delaware, Lackawanna and Western Railroad Company.

Application for certificate under section 59 of the Railroad Law.

Baldwinsville and Liverpool Railroad Company.

Syracuse, Skaneateles and Moravia Railroad Company.

Cross Country Railroad Company.

Warren County Railway.

Lehigh and Lake Erie Railroad Company.

Union Station Railway Company of Buffalo.

DeKalb Avenue and North Beach Railroad Company.

Delaware Valley and Kingston Railway Company.

Application to abandon stations.

Brooklyn and Brighton Beach Railroad Company.

Application for approval of motive power.

Baldwinsville and Liverpool Railroad Company.

Little Falls and Herkimer Street Railway Company.

Application for extension of time in which to equip with automatic couplers.

Boston and Albany Railroad Company.

Crossings.

Little Falls and Herkimer Street Railway Company.
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Huntington).
 Long Island Railroad Company (borough of Queens).
 Long Island Railroad Company (town of Smithtown).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Smithtown).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of Oyster Bay).
 Long Island Railroad Company (town of North Hempstead).
 Long Island Railroad Company (town of Southold).
 Long Island Railroad Company (town of Riverhead).
 Long Island Railroad Company (town of Riverhead).
 Long Island Railroad Company (town of Riverhead).
 Long Island Railroad Company (town of Hempstead).
 Village of Corinth.
 Town Board of Locke.
 Lehigh and Hudson River Railway Company.
 East Side Traction Company.
 City of Middletown.
 Town Board of Colesville.
 City of Elmira.
 Perry, Castile, Silver Springs and Pike Railway Company.
 Greenbush and Nassau Electric Railway.
 Buffalo, Rochester and Pittsburgh Railway Company (Pavillon).
 Town Board of Smithtown, L. I.
 Town Board of Brighton.
 Dunkirk and Point Gratiot Traction Company.
 The Delaware and Hudson Company and The Glens Falls Railroad Company.
 New York Central and Hudson River Railroad Company (Fonda).
 New York Central and Hudson River Railroad Company (Vernon).
 New York Central and Hudson River Railroad Company (near Marcy).
 Town Board of West Seneca.
 The Ulster and Delaware Railroad Company (town of Middletown).
 The Ulster and Delaware Railroad Company (town of Olive).
 The Ulster and Delaware Railroad Company (town of Olive).
 The Ulster and Delaware Railroad Company (town of Hurley).
 The Ulster and Delaware Railroad Company (town of Hurley).
 The Ulster and Delaware Railroad Company (town of Shandaken).
 The Ulster and Delaware Railroad Company (town of Shandaken).

The Public Improvement Commission of city of Cohoes.

Long Island Railroad Company (town of Islip).

Village of Waverly.

Town Board of Southampton, L. I.

Village of Cuba.

Frankfort and Utica Street Railway Company, to cross tracks of West Shore Railway.

Erie Railroad Company (interlocking signal apparatus near Olean).

Delaware, Lackawanna and Western Railroad Company (interlocking signal apparatus west of Painted Post and East of Mount Morris).

City of North Tonawanda (matter of Oliver street crossing).

New York Central and Hudson River Railroad Company (interlocking plant at Alabama street, Buffalo).

The Boston and Albany Railroad Company (town of Kinderhook).

Erie Railroad Company (interlocking plant at Tonawanda).

Common council city of Niagara Falls, in matter of extension of Tenth street over tracks of New York Central and Hudson River, and Erie Railroads.

NEW COMPANIES.

Formed under the Laws of the State of New York by filing Articles of Association.

SURFACE STEAM ROADS.

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road, miles.	Capital stock.
Jamestown Terminal Railroad Company.....	Chautauqua	Nov. 9, 1898	1	\$50,000
San Juan and Rio Piedras Railroad Company.....	Province of Porto Rico ...	Dec. 27, 1898	7½	300,000
The Central New York and Northern Railroad Company ..	Steuben, Livingston, Ontario and Wayne	Apr. 20, 1899	60	1,500,000
South Buffalo Railway Company.	Erie	Apr. 25, 1899	8	500,000
Penn Yan, Lake Keuka and Southern Railroad Company...	Yates, Schuyler and Steuben	May 19, 1899	35	400,000
Nyack and Southern Railroad Company*.....	Rockland	June 12, 1899	5	50,000
Mexican Mineral Railway Company**.....	Republic of Mexico.....	July 29, 1899	24	350,000
Albany and Hudson Railway and Power Company.....	Rensselaer and Columbia.	Aug. 5, 1899	8	2,500,000
Southfield Beach Railroad Company.....	Richmond	Aug. 18, 1899	2	250,000
Chatham and Lebanon Valley Railroad	Rensselaer and Columbia.	Sept. 23, 1899	57	1,000,000

SURFACE STREET.

Fort George Extension Railway Company	New York.....	Nov. 17, 1898	2,660 ft.	10,000
East Side Traction Company	Onondaga.....	Jan. 14, 1899	10	400,000
The Massena Electric Street Railway Company	St. Lawrence	Feb. 6, 1899	8	100,000
Raquette Lake Railway Company	Herkimer and Hamilton..	Feb. 7, 1899	19	250,000
Mineola, Hempstead and Freeport Traction Company.....	Nassau	Feb. 27, 1899	11	125,000
Nassau County Railway Company.....	Nassau	Mar. 13, 1899	1½	25,000
The Syracuse, Skaneateles and Moravia Railroad Company....	Onondaga and Cayuga....	Mar. 15, 1899	40	1,000,000
The Nassau Belt Line Traction Company	Nassau	Mar. 20, 1899	30	300,000
Municipal Street Railway Company.....	New York.....	Apr. 15, 1899	9½	250,000
Ridge Road and Lake Shore Railway Company	Erie	Apr. 25, 1899	4	40,000
Perry, Castle, Silver Springs and Pike Railway Company ..	Wyoming	May 9, 1899	20	200,000
The Elmira and Corning Railway Company	Chemung and Steuben....	May 11, 1899	18	200,000
Hudson Light and Power and Railroad Company	Columbia	June 10, 1899	5	150,000
Warren County Railway	Warren	June 29, 1899	7	200,000
Dunkirk and Point Gratiot Traction Company	Chautauqua	July 20, 1899	2½	25,000
Buffalo and Erie Electric Railroad	Erie and Chautauqua....	Sept. 27, 1899	70	1,000,000
Dunkirk and Hickoryhurst Electric Railroad	Chautauqua	Sept. 27, 1899	7	50,000
Fredonia and Lily Dale Electric Railroad	Chautauqua	Sept. 27, 1899	7	150,000
Bedford and Eastern Railway.....	Westchester.....	Oct. 25, 1899	3	30,000

NEW COMPANIES—(Continued.)

UNDERGROUND.

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road, miles.	Capital stock.
Manhattan and Jersey City Railway Company†	New York.....	June 16, 1899	1	\$10,000
New York and Long Island Terminal Railway Company:..	Kings and New York.....	June 20, 1899	2	7,500,000
Manhattan Tunnel Railway Company §	New York.....	May 17, 1899	1	10,000
Metropolis Tunnel Railroad Company ¶	New York and Kings.....	July 10, 1899	5	50,000
Manhattan and Jersey City Railway Company (Amended)†	New York.....	Aug. 9, 1899	1	10,000
ELEVATED.				
Union Station Railway Company of Buffalo†	Erie.....	Mar. 15, 1899	6	40,000

* To be operated by locomotive, steam or other power.

** From City of Monterey to San Pedro, Republic of Mexico.

† To be operated by steam, electricity, compressed air or any other motive power.

‡ To be operated by electricity or other power.

§ From New York city to Jersey city, under Hudson river.

¶ From Brooklyn to New York city, under East river.

† To be operated by steam power.

COMPANIES REORGANIZED.

"Ogdensburgh and Lake Champlain Railroad Company," sold and reorganized as

OGDENSBURG AND LAKE CHAMPLAIN RAILWAY COMPANY.

Capital stock, \$4,400,000.

Articles of incorporation filed in office of Secretary of State, December 1, 1898.

"The Jamestown and Lake Erie Railway Company," sold and reorganized as

JAMESTOWN AND CHAUTAUQUA RAILWAY COMPANY.

Capital stock, \$475,000.

Articles of incorporation filed in office of Secretary of State, December 30, 1898.

"Philadelphia, Reading and New England Railroad Company," sold and reorganized as

CENTRAL NEW ENGLAND RAILWAY COMPANY.

Capital stock, \$6,600,000.

Articles of incorporation filed in office of Secretary of State, January 12, 1899.

"Brooklyn Union Elevated Railroad Company," sold and reorganized as
BROOKLYN UNION ELEVATED RAILROAD COMPANY.

Capital stock, \$18,000,000.

Articles of incorporation filed in office of Secretary of State, January 30, 1899.

"Genesee and Wyoming Valley Railway Company," sold and reorganized as

GENESEE AND WYOMING RAILROAD COMPANY.

Capital stock, \$500,000.

Articles of incorporation filed in office of Secretary of State, March 24, 1899.

"The Niagara Gorge Railroad Company," sold and reorganized as

THE NIAGARA GORGE RAILROAD COMPANY.

Capital stock, \$1,000,000.

Articles of incorporation filed in office of Secretary of State, June 3, 1899.

"Oswego Street Railway Company and Lake Ontario and Riverside Railway Company," sold and reorganized as

OSWEGO TRACTION COMPANY.

Capital stock, \$300,000.

Articles of incorporation filed in office of Secretary of State, June 8, 1899.

"Otis Elevating Railway Company," sold and reorganized as

OTIS RAILWAY COMPANY.

Capital stock, \$65,000.

Articles of incorporation filed in office of Secretary of State, June 26, 1899.

"Kings County Elevated Railroad Company and Fulton Elevated Railway Company," sold and reorganized as

KINGS COUNTY ELEVATED RAILROAD COMPANY.

Capital stock, \$8,800,000.

Articles of incorporation filed in office of Secretary of State, July 7, 1899.

"The Staten Island Rapid Transit Railway Company," sold and reorganized as

THE STATEN ISLAND RAPID TRANSIT RAILWAY COMPANY.

Capital stock, \$500,000.

Articles of incorporation filed in office of Secretary of State, July 29, 1899.

"Middletown-Goshen Traction Company," sold and reorganized as

MIDDLETOWN-GOSHEN ELECTRIC RAILWAY COMPANY.

Capital stock, \$100,000.

Articles of incorporation filed in office of Secretary of State, October 20, 1899.

COMPANIES CONSOLIDATED.

The following corporations were consolidated and name changed during the year, as follows, viz.:

NAME OF OLD COMPANY.	Name of present Company.	Certificate filed.	Capital stock.
The North End Street Railway Company, Fort George and Eleventh Avenue and Fort George Extension Railway Company.....	Fort George and Eleventh avenue Railroad Company..	Nov. 21, 1898	\$3,000,000
Greene County Traction Company; The Coxsackie and Greenville Traction Company.....	The Coxsackie and Greenville Traction Company.....	May 18, 1899	200,000
The Central New York and Western Railroad Company; The Central New York and Northern Railroad Company.....	The Central New York and Western Railroad Company	Aug. 1, 1899	3,500,000
The Pittsburg, Shawmut and Northern Railroad Company; The Central New York and Western Railroad Company.....	The Pittsburg, Shawmut and Northern Railroad Company	Aug. 2, 1899	12,000,000
New York and North Shore Railway Company; Long Island Electric Railway.....	New York and North Shore Railway Company.....	Oct. 25, 1899	2,100,000

EXTENSION OF ROUTES.

The following companies have, during the last year, filed articles of extension of routes.

NAME OF ROAD.	Extension filed.	Length of extension.
Westchester Electric Railroad Company.....	Nov. 7, 1898	2,000 feet.
Eighth Avenue Railroad Company.....	Nov. 21, 1898	1,800 feet.
New York and Harlem Railroad Company.....	Nov. 21, 1898	1,530 feet.
Southern Boulevard Railroad Company.....	Nov. 22, 1898	.....
Third Avenue Railroad Company.....	Nov. 22, 1898	.....
Third Avenue Railroad Company.....	Nov. 22, 1898	.....
Third Avenue Railroad Company.....	Nov. 22, 1898	.....
Union Railway Company of New York city.....	Nov. 22, 1898	.....
Union Railway Company of New York city.....	Nov. 22, 1898	.....
Westchester Electric Railroad Company.....	Dec. 8, 1898	.....
New York, Westchester and Connecticut Traction Co.....	Dec. 15, 1898	.....
New York, Westchester and Connecticut Traction Co.....	Dec. 19, 1898	.....
New York, Westchester and Connecticut Traction Co.....	Dec. 27, 1898	.....
Westchester Electric Railroad Company.....	Jan. 6, 1899	.....
New York, Westchester and Connecticut Traction Co.....	Jan. 23, 1899	.....
Greenwich and Schuylerville Electric Railroad.....	Jan. 30, 1899	.....
Tarrytown, White Plains and Mamaroneck Railway Co.....	Feb. 1, 1899	8 miles.....
Frankfort and Utica Street Railway.....	Feb. 2, 1899	.....
Westchester Electric Railroad Company.....	Feb. 4, 1899	.....
The Auburn Inter-Urban Electric Railroad Company.....	Feb. 9, 1899	10 $\frac{1}{2}$ miles.....
Westchester Electric Railroad Company.....	Feb. 9, 1899	.....
Westchester Electric Railroad Company.....	Feb. 9, 1899	.....
Greenwich and Schuylerville Railroad.....	Feb. 27, 1899	.....
Greenwich and Schuylerville Railroad.....	Feb. 27, 1899	.....
Stillwater and Mechanicville Street Railway Company.....	Feb. 27, 1899	.....
Stillwater and Mechanicville Street Railway Company.....	Feb. 27, 1899	.....
Syracuse, Lakeside and Baldwinville Railway.....	Feb. 28, 1899	6 miles.....
Bennington and Hoosick Valley Railway Company.....	Mch. 14, 1899	.....
Auburn Inter-Urban Electric Railroad Company.....	Mch. 15, 1899	10 $\frac{1}{2}$ miles.....
Westchester Electric Railroad Company.....	Mch. 15, 1899	.....
Little Falls and Harkimer Street Railway Company.....	Mch. 21, 1899	.....
Auburn City Railway Company.....	Mch. 22, 1899	10 $\frac{1}{2}$ miles.....
New York, Westchester and Connecticut Traction Co.....	Mch. 22, 1899	.....
Tarrytown, White Plains and Mamaroneck Railway Co.....	Mch. 25, 1899	12 miles.....
New York, Elmsford and White Plains Railway Co.....	Feb. 3, 1899	.....
Larchmont Horse Railway Company.....	Mch. 22, 1899	.....
New York, Westchester and Connecticut Traction Co.....	April 19, 1899	.....
Troy City Railway Company.....	April 20, 1899	2,400 feet.....
Troy City Railway Company.....	April 20, 1899	.....
Hamburg Railway Company.....	April 25, 1899	.....
The Greenbush and Nassau Electric Railway Company.....	April 26, 1899	.....
Schuylerville and Greenwich Electric Railroad.....	April 28, 1899	.....
Schuylerville and Greenwich Electric Railroad.....	April 28, 1899	.....
Hamburg Railway Company.....	May 5, 1899	.....
East Side Traction Company.....	May 22, 1899	.....
Larchmont Horse Railway Company.....	May 25, 1899	.....
The Buffalo Traction Company.....	June 2, 1899	.....
Greenwich and Schuylerville Electric Railroad.....	June 6, 1899	.....
Schenectady Railway Company.....	June 18, 1899	.....
Elmira and Horseheads Railway Company.....	June 21, 1899	5,000 feet.....
West Water Street Railroad Company.....	June 21, 1899	3,100 feet.....
Yonkers Railroad Company.....	July 12, 1899	.....
New York, Westchester and Connecticut Traction Co.....	July 18, 1899	.....
Ithaca Street Railway Company.....	July 21, 1899	.....
Yonkers Railroad Company.....	July 29, 1899	.....
Buffalo and Lockport Railway.....	Aug. 1, 1899	.....
Buffalo, Hamburg and Aurora Railway Company.....	Aug. 9, 1899	.....
Buffalo, Hamburg and Aurora Railway Company.....	Aug. 9, 1899	.....
Port Chester Street Railway Company.....	Aug. 11, 1899	.....
Port Chester Street Railway Company.....	Aug. 11, 1899	1,500 feet.....
Glens Falls, Sandy Hill and Fort Edward Street Railroad Company.....	Aug. 31, 1899	.....

EXTENSION OF ROUTES—(*Concluded.*)

NAME OF ROAD.	Extension filed.	Length of extension.
New York, Westchester and Connecticut Traction Co....	Sept. 2, 1899	.....
Westchester Electric Railroad Company.....	Sept. 11, 1899	.....
Westchester Electric Railroad Company.....	Sept. 11, 1899	.....
The Massena Electric Street Railway Company.....	Sept. 15, 1899	.....
Buffalo, Hamburg and Aurora Railway Company.....	Sept. 16, 1899	7,025 feet.
Tarrytown, White Plains and Mamaroneck Railway Co..	Sept. 20, 1899	.....
Tarrytown, White Plains and Mamaroneck Railway Co..	Sept. 20, 1899	.....
Schenectady Railway Company.....	Oct. 4, 1899	1,600 feet.
Saratoga Traction Company.....	Oct. 25, 1899	.....
Larchmont Horse Railway Company.....	Oct. 31, 1899	.....

INCREASE OF CAPITAL STOCK.

The following companies have increased their capital stock during the year, to-wit:

NAME OF ROAD.	From	To	Filed with Secretary of State.
Colonial City Traction Company	\$175,000	\$250,000	Nov. 23, 1898
Brooklyn Rapid Transit Company	20,000,000	45,000,000	Feb. 15, 1899
Manhattan Railway Company	30,000,000	40,000,000	March 1, 1899
Syracuse, Lakeside and Baldwinsville Railway ..	250,000	500,000	March 6, 1899
The Albany, Helderberg and Schoharie Railway Company	300,000	1,250,000	April 24, 1899
Catskill Electric Railway Company	80,000	400,000	May 2, 1899
The Central New York and Western Railroad Company	1,000,000	2,000,000	August 1, 1899
The Massena Electric Street Railway Company ..	100,000	125,000	August 29, 1899
Port Chester Street Railway Company	100,000	300,000	Sept. 27, 1899

INCREASE OF NUMBER OF SHARES OF CAPITAL STOCK.

The following company increased the number of shares of its stock during the year:

NAME.	From	To	Date of filing.
Albany and Hudson Railway and Power Company	2,500 at \$1,000	25,000 at \$100	Sept. 28, 1899

CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

The following companies, which have been granted certificates of public convenience and a necessity by the Board of Railroad Commissioners under section 59 of the Railroad Law, have filed such certificates in the Secretary of State's office, between November 1, 1898 and October 31, 1899.

SURFACE STEAM.

SOUTH BUFFALO RAILWAY COMPANY.

Certificate filed in office of Secretary of State, July 5, 1899.

THE CENTRAL NEW YORK AND NORTHERN RAILROAD COMPANY.

Certificate filed in office of Secretary of State, August 1, 1899.

ALBANY AND HUDSON RAILWAY AND POWER COMPANY.

Certificate filed in office of Secretary of State, September 22, 1899.

STREET SURFACE.

KINGSBRIDGE RAILWAY COMPANY.

Certificate filed in office of Secretary of State, December 2, 1899.

FORT GEORGE AND ELEVENTH AVENUE RAILROAD COMPANY.

Certificate filed in office of Secretary of State, December 24, 1899.

THE NORTH END STREET RAILWAY COMPANY.

Certificate filed in office of Secretary of State, December 24, 1899.

ROCHESTER AND SODUS BAY RAILWAY COMPANY.

Certificate filed in office of Secretary of State, February 9, 1899.

RAQUETTE LAKE RAILWAY COMPANY.

Certificate filed in office of Secretary of State, April 11, 1899.

ONONDAGA LAKE RAILROAD COMPANY.

Certificate filed in office of Secretary of State, July 5, 1899.

THE MASSENA ELECTRIC STREET RAILWAY COMPANY.

Certificate filed in office of Secretary of State, July 8, 1899.

GREENWICH AND SCHUYLERVILLE ELECTRIC RAILROAD COMPANY.

Certificate filed in office of Secretary of State, July 25, 1899.

NASSAU BELT LINE TRACTION COMPANY.

Certificate filed in office of Secretary of State, October 17, 1899.

CHANGE OF PLACE OF BUSINESS.

WELLSVILLE, COUDERSPORT AND PINE CREEK RAILROAD COMPANY.

From Wellsville, Allegany county, to Buffalo.

Certificate of change filed in office of Secretary of State, June 29, 1899.

REDUCTION OF NUMBER OF DIRECTORS.

NAME OF COMPANY.	From	To	Filed with the Secretary of State.
The Staten Island Midland Railroad Company.....	8	7	December 8, 1898

INCREASE OF NUMBER OF DIRECTORS.

NAME OF COMPANY.	From	To	Filed with the Secretary of State.
Olean Street Railway Company	7	13	December 24, 1898

LEASED ROADS.

The following roads were leased during the year, viz.:

"Wallkill Valley Railroad Company"

was leased April 11, 1899, to THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

Lease filed in office of Secretary of State, April 27, 1899.

"Fall Brook Railway Company"

was leased April 11, 1899, to THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

Lease filed in office of Secretary of State, May 3, 1899.

"The Pine Creek Railway Company"

was leased April 11, 1899, to THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

Lease filed in office of Secretary of State, May 3, 1899.

"Syracuse, Geneva and Corning Railway Company"

was leased April 11, 1899, to THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

Lease filed in office of Secretary of State, May 3, 1899.

"Elmira and Horseheads Railway Company"

was leased April 26, 1899, to THE MAPLE AVENUE RAILROAD COMPANY.

Lease filed in office of Secretary of State, June 2, 1899.

"The West Water Street Railroad Company"

was leased April 26, 1899, to THE MAPLE AVENUE RAILROAD COMPANY.

Lease filed in office of Secretary of State, June 2, 1899.

"Wellsville, Coudersport and Pine Creek Railroad Company"

was leased December 13, 1895, to BUFFALO AND SUSQUEHANNA RAILROAD COMPANY.

Lease filed in office of Secretary of State, June 6, 1899.

"Syracuse Rapid Transit Railway Company"

was leased August 7, 1899, to EAST SIDE TRACTION COMPANY.

Lease filed in office of Secretary of State, August 9, 1899.

CHANGE OF ROUTE.

GREENWICH AND SCHUYLERVILLE ELECTRIC RAILROAD.

Certificate of change filed in office of Secretary of State, September 19, 1899.

GREENWICH AND SCHUYLERVILLE ELECTRIC RAILROAD.

Certificate of change filed in office of Secretary of State, September 19, 1899.

CERTIFICATE OF MERGER.

The following companies have been merged during the year:

"Atlantic Avenue Railroad Company of Brooklyn,"
merged in the NASSAU ELECTRIC RAILROAD COMPANY.
Certificate filed in the office of Secretary of State, January 26, 1899.

"United Railroad Company,"
merged in the NASSAU ELECTRIC RAILROAD COMPANY.
Certificate filed in the office of Secretary of State, January 26, 1899.

"Kinderhook and Hudson Railway,"
merged in the HUDSON LIGHT AND POWER AND RAILROAD COMPANY.
Certificate filed in the office of Secretary of State, June 13, 1899.

"Hudson Light and Power and Railroad Company," and "Greenbush and
Nassau Electric Railway,"
merged in the ALBANY AND HUDSON RAILWAY AND POWER COMPANY.
Certificate filed in the office of Secretary of State, October 13, 1899.

CHANGE OF NAME.

NAME OF OLD COMPANY.	Name of New Company.	Certificate filed.
Delaware Electric Light and Power Com- pany	Delaware Electric Light, Power and Railroad Company	Dec. 16, 1898

CERTIFICATE OF ABANDONMENT OF PART OF ROUTE.

The UTICA BELT LINE STREET RAILWAY COMPANY abandoned about 900 feet of track on Grove Place, in the city of Utica.

Certificate filed in office of Secretary of State, May 3, 1899.

TRANSFER OF FRANCHISE.

The franchise of the "Hudson Street Railway" was transferred to HUDSON LIGHT AND POWER AND RAILROAD COMPANY.

Certificate of transfer filed in office of Secretary of State, June 10, 1899.

ENACTMENTS RELATING TO RAILROADS.

1899.

Chap. 201. An act to facilitate the proving of the incorporation of new corporations formed by the consolidation of two or more corporations.

Chap. 209. An act to extend the time of the Batavia and Northern Railroad Company to begin the construction of its road, and to expend thereon ten per centum of the amount of its capital, and to finish its road and put it in operation.

Chap. 226. An act to amend the railroad law, relative to grade crossings.

Chap. 320. An act to amend section three hundred and forty-one of the code of civil procedure, relating to jurisdiction of county courts.

Chap. 325. An act to amend the fisheries, game and forest law relative to the transportation of trout.

Chap. 336. An act to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claims of the several counties containing towns, villages or cities bonded to aid in the construction of any railroad passing through such towns, villages or cities, on account of the payment to the state of the state taxes collected from such railroads within such bonded towns, villages or cities.

Chap. 345. An act to amend the highway law, and the act amendatory thereof, relative to commutations of labor on highways.

Chap. 354. An act to amend article two, of chapter thirty-six, of the general laws, known as the stock corporation law, so as to define the liabilities of directors and officers.

Chap. 359. An act to amend the railroad law, relative to grade crossings.

Chap. 371. An act to regulate the laying and using of street surface railroad tracks upon Amsterdam avenue, in the city of New York, for the greater safety of the lives and limbs of the citizens of said city.

Chap. 386. An act to amend the banking law, relative to securities in which deposits in savings banks may be invested.

Chap. 395. An act to further extend the time within which the Troy and New England Railway Company shall finish its road, or put it in operation beyond its present construction and operation.

Chap. 469. An act to amend chapter eight hundred and forty-one of the laws of eighteen hundred and sixty-seven, entitled "An act to amend an act entitled 'An act to incorporate the president, managers and company of the Delaware and Hudson Canal Company,' passed April twenty-third, eighteen hundred and twenty-three."

Chap. 401. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, upon and through South Saint Paul street in the city of Rochester, from Court street to the Erie canal, upon the property benefited thereby.

Chap. 402. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, through and upon South Saint Paul street in the city of Rochester, from East Main street to Court street, upon the property benefited thereby.

Chap. 403. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, upon and through Mount Hope avenue in the city of Rochester, from the Erie canal to Elmwood avenue, upon the property benefited thereby.

Chap. 404. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, through and upon Court street in the city of Rochester, from South Saint Paul street to Clinton street, upon the property benefited thereby.

Chap. 407. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, upon and through Parsells avenue in the city of Rochester, from Leighton street to the Culver road, upon the property benefited thereby.

Chap. 408. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, upon and through East Main street in the city of Rochester, from Goodman street to the Culver road, upon property benefited thereby.

Chap. 409. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, upon and through Lyell avenue in the city of Rochester, upon property benefited thereby.

Chap. 410. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, upon and through West Main street in the city of Rochester, from Fitzhugh street to the Erie canal, upon the property benefited thereby.

Chap. 411. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, through and upon Exchange street in the city of Rochester, from the Erie canal to Clarissa street, upon property benefited thereby.

Chap. 412. An act to levy an assessment for the cost and expense of constructing an improvement and pavement in, through and upon Exchange street in the city of Rochester, from Main street to the Erie canal, upon the property benefited thereby.

Chap. 488. An act authorizing the sale of property left in street surface railroad cars, and the disposition of the proceeds thereof.

Chap. 491. An act to amend the railroad law, relative to the use of sand and salt upon tracks.

Chap. 497. An act to regulate the use of lands forming part of the right of way of any railroad company, the road of which has been removed from the surface in, or adjacent to, streets and highways in all cities of the first class in this state.

Chap. 536. An act to amend the fisheries, game and forest law in relation to grouse and other birds.

Chap. 539. An act to amend the railroad law, relative to when conductors and brakemen may be policemen.

Chap. 541. An act to amend the railroad law, relative to grade crossings.

Chap. 548. An act to amend chapter six hundred and eighty-six of the laws of eighteen hundred and ninety-four, entitled "An act for the preservation of macadamized public highways in Queens county," in relation to railroads on Greenwich street in the village of Hempstead, county of Nassau.

Chap. 564. An act to amend chapter three hundred and seventy-eight of the laws of eighteen hundred and ninety-seven being "The Greater New York Charter."

Chap. 682. An act to amend chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws," and the acts amendatory thereof, relative to unclaimed freight and baggage.

Chap. 583. An act to amend subdivision ten of section four of the railroad law, relative to mortgages of railroad corporations.

Chap. 584. An act to amend section one hundred of the railroad law, in relation to motive power.

Chap. 589. An act to ratify and legalize the franchise and agreement granted and made by and between the common council of the city of Rome, New York, and the Rome City Street Railway Company.

Chap. 592. An act to authorize the commissioners of the land office to exchange certain parcels of land with the Western New York and Pennsylvania Railway Company.

Chap. 597. An act to amend the railroad law, relative to certificates of public convenience and necessity.

Chap. 622. An act to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, known as the highway law, in relation to abandoned highways and public rights of way.

Chap. 638. An act to authorize the Binghamton, Lestershire and Union Railroad Company to supply light, heat and power to the inhabitants and town and village authorities of the several towns and villages situate upon the Binghamton, Lestershire and Union Railroad, and to acquire the necessary franchises for these purposes.

Chap. 647. An act to amend chapter seven hundred of the laws of eighteen hundred and ninety-five, entitled "An act to extend the time for the commencement of construction or completion of railroads other than street surface railroads."

Chap. 681. An act to amend the highway law, in relation to cutting and destroying noxious weeds, briars and brush growing along the highway.

Chap. 690. An act to prevent monopolies in articles or commodities of common use, and to prohibit restraints of trade and commerce, providing penalties for violations of the provisions of this act, and procedure to enable the attorney-general to secure testimony in relation thereto.

Chap. 696. An act to amend section forty-four of the stock corporation law, in relation to increase or reduction of capital stock of domestic railroad corporations.

Chap. 707. An act to amend chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three, entitled "An act providing for ascertaining and paying the amount of damages to lands and buildings suffered by reason of changes of grade of streets or avenues, made pursuant to chapter seven hundred and twenty-one of the laws of eighteen hundred and eighty-seven, providing for the depression of railroad tracks in the Twenty-third and Twenty-fourth wards in the city of New York or otherwise," as amended by chapter five hundred and sixty-seven of the laws of eighteen hundred and ninety-four, entitled "An act to amend chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three, entitled 'An act providing for ascertaining and paying the amount of damages to lands and buildings suffered by reason of changes of grade of streets or avenues, made pursuant to chapter seven hundred and twenty-one of the laws of eighteen hundred and eighty-seven, providing for the depression of railroad tracks in the Twenty-third and Twenty-fourth wards in the city of New York, or otherwise,'" relative to damages caused by change of grade in the borough of the Bronx (formerly

the Twenty-third and Twenty-fourth wards), of the city of New York, by permitting the filing of certain claims, under the provisions of said chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three, as amended by chapter five hundred and sixty-seven of the laws of eighteen hundred and ninety-four.

Chap. 708. An act to amend chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three, entitled "An act for providing for ascertaining and paying the amount of damages to lands and buildings suffered by reason of changes of grade of streets or avenues, made pursuant to chapter seven hundred and eighty-seven, providing for the depression of railroad tracks in the Twenty-third and Twenty-fourth wards in the city of New York, or otherwise," relating to time to submit evidence.

Chap. 709. An act to amend chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three, entitled "An act providing for ascertaining and paying the amount of damages to lands and buildings, suffered by reason of change of grade of streets or avenues, made pursuant to chapter seven hundred and twenty-one of the laws of eighteen hundred and eighty-seven, providing for the depression of railroad tracks in the Twenty-third and Twenty-fourth wards in the city of New York or otherwise," as amended by chapter five hundred and sixty-seven of the laws of eighteen hundred and ninety-four, entitled "An act to amend chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three entitled 'An act providing for ascertaining and paying the amount of damages to lands and buildings suffered by reason of changes of grade of streets or avenues, made pursuant to chapter seven hundred and twenty-one of the laws of eighteen hundred and eighty-seven, providing for the depression of railroad tracks in the Twenty-third and Twenty-fourth wards in the city of New York or otherwise,'" relative to damages caused by change of grade in the borough of the Bronx (formerly the Twenty-third and Twenty-fourth wards), of the city of New York, by permitting the filing of certain claims, under the provisions of said chapter five hundred and thirty-seven of the laws of eighteen hundred and ninety-three, as amended by chapter five hundred and sixty-seven of the laws of eighteen hundred and ninety-four.

Chap. 710. An act to amend the railroad law regarding construction of a street surface railroad track by the commissioners of the state reservation at Niagara.

Chap. 712. An act to amend the tax law, in relation to the taxation of public franchises as real property.

Chap. 727. An act providing for the punishment of pools, trusts and conspiracies to control rates of transportation.

ALPHABETICAL LIST

Of Companies Formed Under the Laws of this State.

Name of road.	When formed.	Name of road.	When formed.
Addison and Northern Pennsylvania..	1882	Attica and Arcade.....	1870
Addison, Osceola and Cowanesque Valley.....	1878	Attica and Arcade.....	1880
Addison and Pennsylvania.....	1892	Attica and Buffalo.....	1836
Addison and Pennsylvania.....	1892	Attica and Freedom.....	1891
Addison and Pennsylvania.....	1887	Attica and Hornellsville.....	1846
Addison and Susquehanna.....	1898	Attica, Lockport and Lake Ontario..	1883
Adirondack.....	1839	Attica and Sheldon.....	1836
Adirondack.....	1863	Auburn City.....	1886
Adirondack Estate Railroad Company.	1860	Auburn and Canal.....	1832
Adirondack Extension.....	1891	Auburn and Deposit Air Line.....	1871
Adirondack and St. Lawrence.....	1890	Auburn and Homer Midland.....	1872
Adirondack Railway.....	1882	Auburn and Ithaca.....	1889
Albany.....	1861	Auburn Inter-Urban Electric.....	1896
Albany.....	1863	Auburn and Owasco Lake.....	1871
Albany, Bennington and Rutland.....	1860	Auburn and Owasco Lake.....	1880
Albany and Boston.....	1862	Auburn and Owasco Lake Electric..	1889
Albany and Boston.....	1864	Auburn and Port Byron.....	1869
Albany, Greenbush and Bath.....	1896	Auburn and Rochester.....	1836
Albany, Helderberg and Schoharie Electric.....	1896	Auburn and Syracuse.....	1834
Albany and Hudson.....	1899	Auburn and Western.....	1897
Albany and Kenwood.....	1863	Auburn and Willow Brook.....	1872
Albany and Lackawanna.....	1866	Aurora and Buffalo.....	1832
Albany and New York.....	1866	Avenue C.....	1869
Albany and Northern.....	1851	Avon, Genesee and Mount Morris....	1840
Albany Railroad.....	1863	Babylon.....	1871
Albany Railway.....	1863	Babylon and North Shore.....	1898
Albany, Sandlake and Stephentown..	1871	Baldwinsville Branch.....	1886
Albany and Saratoga.....	1852	Baldwinsville and Liverpool.....	1898
Albany and Saratoga Springs.....	1853	Ballston Electric.....	1896
Albany and Schoenectady.....	1847	Ballston Terminal.....	1896
Albany and Suburban.....	1895	Batavia, Albion and Lake Ontario...	1888
Albany and Susquehanna.....	1851	Batavia, Attica and Salamanca.....	1867
Albany Terminal.....	1888	Batavia and Cheektowaga.....	1850
Albany and Vermont.....	1859	Batavia and Northern.....	1894
Albany, Vermont and Canada.....	1859	Batavia and Northern.....	1896
Albion and West Stockbridge.....	1836	Batavia Street.....	1896
Albion and Tonawanda.....	1832	Bath and Crooked Lake.....	1831
Allegheny Central.....	1881	Bath and Hammondsport.....	1872
Allegheny Central.....	1882	Bath and Lake Keuka.....	1896
Allegheny and Kinzua.....	1888	Bay Ridge and Sea Shore.....	1878
Allegheny and Kinzua.....	1890	Bay Ridge and Sea Side.....	1871
Amsterdam, Chuctanunda and Northern.....	1879	Bay Shore.....	1866
Amsterdam Electric.....	1888	Bedford and Eastern.....	1899
Amsterdam, Johnstown and Gloversville.....	1894	Belden Point.....	1892
Arcade and Genesee River.....	1872	Belmont and Buffalo.....	1871
Astoria, Blissville and Calvary Cemetery.....	1891	Bennington and Hoosick Valley.....	1897
Astoria and Hunter's Point.....	1867	Binghamton.....	1892
Astoria and Hunter's Point.....	1877	Binghamton.....	1894
Astoria Street.....	1891	Binghamton Central.....	1888
Atlantic Avenue.....	1872	Binghamton, Dushore and Williamsport.....	1872
Atlantic Avenue Elevated.....	1890	Binghamton, Lestershire and Union..	1894
Atlantic Cable.....	1888	Binghamton and Port Dickinson....	1868
Atlantic and Great Western.....	1859	Binghamton and Southwestern.....	1887
Atlantic and Great Western.....	1872	Binghamton Street.....	1890
Atlantic and Great Western of New York.....	1872	Binghamton and Susquehanna.....	1833
Atlantic and Great Western Railroad Company of New York and Pennsylvania.....	1872	Binghamton and State Line.....	1892
Atlantic and Ontario.....	1871	Binghamton and Williamsport.....	1882
Attica and Allegheny Valley.....	1852	Black River.....	1836
		Black River Company.....	1832
		Black River Traction.....	1897
		Black River and Morristown.....	1870
		Black River and St. Lawrence.....	1868
		Black River and Utica.....	1868
		Black River and Woodhull.....	1868
		Bleecker Street and Fulton Ferry....	1864
		Blossburgh and Corning.....	1854

Name of road.	When formed.	Name of road.	When formed.
Bombay and Molra.....	1898	Brooklyn, East New York and Rockaway.....	1894
Boonville and Constableville.....	1898	Brooklyn Elevated.....	1894
Boonville and Ontario.....	1898	Brooklyn Elevated and Atlantic Beach.....	1879
Boonville and Port Ontario.....	1873	Brooklyn Elevated Railway Construction Company.....	1883
Boonville and Turin.....	1886	Brooklyn Elevated Silent Safety.....	1874
Boston and Albany.....	1870	Brooklyn, Flatbush and Coney Island.....	1896
Boston, Albany and Schenectady.....	1877	Brooklyn, Flatbush and Coney Island.....	1859
Boston, Hartford and Erie.....	1864	Brooklyn, Flatbush and Coney Island Railway.....	1877
Boston, Hartford and Erie Extension.....	1864	Brooklyn, Flatbush and Rockaway Beach.....	1879
Boston, Hartford and Erie Ferry Extension.....	1864	Brooklyn, Fort Hamilton, Bath and Coney Island.....	1836
Boston and Henderson Harbor.....	1872	Brooklyn, Fort Hamilton and Coney Island.....	1867
Boston, Hoosac Tunnel and Albany.....	1873	Brooklyn, Fort Hamilton and Coney Island.....	1881
Boston, Hoosac Tunnel and Western.....	1877	Brooklyn Heights.....	1887
Boston, Hoosac Tunnel and Western Railway.....	1881	Brooklyn Heights Cable.....	1886
Boston, New York and Chicago.....	1874	Brooklyn and Jamaica.....	1832
Boston, New York and Western.....	1880	Brooklyn and Jamaica.....	1896
Boston, Rome and Oswego.....	1871	Brooklyn and Jersey City Ferry.....	1884
Boston, Saratoga and Western.....	1870	Brooklyn and Long Island Cable.....	1884
Boutenberg.....	1886	Brooklyn and Long Island City.....	1880
Bowery Bay and Hunter's Point.....	1882	Brooklyn and Long Island Trunk.....	1883
Bradford, Mildred and Cuba.....	1881	Brooklyn and Montauk.....	1880
Branchport and Penn Yan.....	1885	Brooklyn, Middle Village and Jamaica.....	1896
Breslau and Fire Island.....	1872	Brooklyn, Mapleton, Van Pelt Manor and Bath Beach.....	1893
Brewerton and Syracuse.....	1836	Brooklyn, Newtown and Bowery Bay.....	1894
Bridge Tunnel.....	1886	Brooklyn, New York and New Jersey Terminal.....	1893
Brighton (No. 1).....	1880	Brooklyn, Prospect Park and Flatbush.....	1867
Brighton (No. 2).....	1880	Brooklyn, Prospect Park and Jamaica Bay.....	1896
Brighton Beach.....	1879	Brooklyn and Queens County.....	1883
Brighton Beach and New York.....	1880	Brooklyn, Queens County and Suburban.....	1893
Brighton and Bensonhurst.....	1892	Brooklyn and Rockaway.....	1867
Broad Street (New York).....	1890	Brooklyn and Rockaway Beach.....	1864
Bowery Bay and Bowery Bay.....	1883	Brooklyn, Rockaway and Coney Island.....	1881
Broadway (Brooklyn).....	1868	Brooklyn and Sea Shore.....	1871
Broadway (New York).....	1884	Brooklyn Steam Transit.....	1869
Broadway (New York).....	1890	Brooklyn Steam Transit.....	1871
Broadway Central Underground.....	1880	Brooklyn Sub-railway.....	1886
Broadway, Ferry and Metropolitan Avenue.....	1892	Brooklyn and Suburban.....	1887
Broadway, Lexington and Fifth Ave.....	1884	Brooklyn Union Elevated.....	1899
Broadway and Rockaway Beach.....	1880	Brooklyn Underground.....	1881
Broadway and Seventh Avenue.....	1864	Brooklyn, Winfield and Newtown.....	1870
Broadway Surface.....	1884	Brooklyn and Winfield Railway.....	1869
Broadway Underground.....	1880	Broome and DeLancey Street Crosstown.....	1896
Broadway Underground Connecting.....	1880	Broome, DeLancey and Spring Streets.....	1886
Broadway and Yonkers Patent.....	1866	Buffalo.....	1890
Brocton Street.....	1894	Buffalo.....	1890
Brookville and St. Lawrence Bridge Company.....	1897	Buffalo and Allegany Valley.....	1883
Brook Avenue.....	1885	Buffalo, Aurora and Southeastern.....	1883
Brookfield.....	1888	Buffalo and Batavia.....	1886
Brooklyn, Bath and Coney Island.....	1862	Buffalo, Bellview and Lancaster.....	1893
Brooklyn, Bath and Coney Island.....	1879	Buffalo and Black Rock.....	1883
Brooklyn, Bath and West End.....	1885	Buffalo, Bradford and Pittsburg.....	1859
Brooklyn, Bergen Beach and Canarsie.....	1893	Buffalo Branch of the Erie Railway.....	1861
Brooklyn Bridge, Prospect Park and Eastern.....	1895	Buffalo, Cayuga Valley and Pine Creek.....	1882
Brooklyn Bridge and South Ferry.....	1887	Buffalo, Chautauqua Lake and Pittsburg.....	1879
Brooklyn Bridge and South Shore.....	1886	Buffalo City.....	1867
Brooklyn and Brighton Beach.....	1887	Buffalo City.....	1877
Brooklyn, Bushwick and Queens County.....	1885	Buffalo, Cleveland and Chicago Railway.....	1881
Brooklyn Cable.....	1883	Buffalo and Conhocton Valley.....	1850
Brooklyn Cable.....	1886	Buffalo, Corning and New York.....	1883
Brooklyn and Canarsie.....	1866	Buffalo, Corey and Pittsburg.....	1863
Brooklyn Central.....	1859	Buffalo Creek.....	1890
Brooklyn Central and Jamaica.....	1860	Buffalo Creek Extension.....	1874
Brooklyn City.....	1853		
Brooklyn City Elevated.....	1875		
Brooklyn City Elevated.....	1879		
Brooklyn City, Hunter's Point and Prospect Park.....	1868		
Brooklyn City and Newtown.....	1860		
Brooklyn City and Ridgewood.....	1861		
Brooklyn City and Rockaway.....	1862		
Brooklyn and Coney Island.....	1876		
Brooklyn and Coney Island Central.....	1877		
Brooklyn, Coney Island and Rockaway.....	1878		
Brooklyn Crosstown.....	1872		

Name of road.	When formed.	Name of road.	When formed.
Buffalo Creek Transfer.....	1881	Calvary Cemetery, Greenpoint and Brooklyn.....	1885
Buffalo Crostown.....	1874	Camden, Watertown and Northern...	1890
Buffalo and Depew.....	1897	Campbell Hall Connecting.....	1889
Buffalo Dock and Connecting.....	1890	Canajoharie and Catskill.....	1830
Buffalo and East Aurora Electric.....	1892	Canal.....	1878
Buffalo East Side Street.....	1870	Canandaigua and Bath.....	1872
Buffalo Electric and Cable Street....	1889	Canandaigua and Corning.....	1845
Buffalo and Erie.....	1832	Canandaigua and Elmira.....	1852
Buffalo and Erie.....	1867	Canandaigua Lake.....	1887
Buffalo and Erie Electric.....	1899	Canandaigua and Niagara Falls.....	1851
Buffalo Erie Basin.....	1878	Canandaigua, Palmyra and Ontario...	1872
Buffalo, Gardenville and Ebeneser...	1895	Canandaigua Railway and Transpor- tation Company.....	1828
Buffalo and Geneva.....	1886	Canandaigua Street.....	1886
Buffalo and Geneva.....	1889	Canandaigua and Syracuse.....	1853
Buffalo and Great Western.....	1882	Canarsie, Brooklyn and Winfield....	1874
Buffalo and Hamburg.....	1892	Canarsie and Flatbush.....	1874
Buffalo Harbor.....	1883	Canastota Northern.....	1886
Buffalo, Hamburg and Aurora.....	1897	Canistota Valley Electric.....	1891
Buffalo and Hinsdale.....	1846	Canton and St. Lawrence River.....	1885
Buffalo and International.....	1857	Canton and Waddington.....	1884
Buffalo and International Bridge.....	1871	Capitol Railway.....	1891
Buffalo and Jamestown.....	1872	Cassadaga and Erie.....	1836
Buffalo, Kenmore and Tonawanda Electric.....	1891	Castleton and West Stockbridge....	1834
Buffalo, Lackawanna and Pacific.....	1889	Carthage and Adirondack.....	1883
Buffalo and Lancaster Electric.....	1892	Carthage, Watertown and Sacketts Harbor.....	1869
Buffalo and Lake Huron.....	1858	Catskill City.....	1885
Buffalo Lehigh.....	1881	Catskill Electric.....	1897
Buffalo and Lockport.....	1852	Catskill Horse.....	1874
Buffalo and Lockport Railway.....	1898	Catskill, Cairo and Windham.....	1895
Buffalo and New York.....	1851	Catskill and Ithaca.....	1828
Buffalo and New York City.....	1851	Catskill Mountain.....	1890
Buffalo, New York and Erie.....	1857	Catskill Mountain.....	1885
Buffalo, New York and Philadelphia....	1871	Catskill and Schoharie Valley.....	1871
Buffalo and Niagara Falls.....	1834	Catskill and Tannersville.....	1892
Buffalo and Niagara Falls Electric....	1893	Cattaraugus.....	1868
Buffalo and Niagara Falls Electric....	1895	Cayadutta Electric.....	1892
Buffalo, Niagara River and Grand Island.....	1897	Cayadutta Electric.....	1893
Buffalo Niagara Slip.....	1877	Cayuga Lake.....	1867
Buffalo, North Main Street and Tonawanda Electric.....	1892	Cayuga Lake Electric.....	1894
Buffalo, North Main Street and Tonawanda.....	1895	Cayuga Midland.....	1871
Buffalo, North Tonawanda and San- born Electric.....	1893	Cayuga Northern.....	1872
Buffalo and Oil Creek Cross Cut.....	1865	Cayuga Railway.....	1875
Buffalo and Pittsburg.....	1852	Cayuga Southern.....	1878
Buffalo, Pittsburg and St. Louis.....	1852	Cayuga and Susquehanna.....	1843
Buffalo, Pittsburg and Western.....	1890	Cazenovia and Canastota.....	1868
Buffalo, Pittsburg and Western.....	1881	Cazenovia and Canastota.....	1872
Buffalo and Rochester.....	1850	Cazenovia, Canastota and De Ruyter...	1872
Buffalo, Rochester and Pittsburg.....	1881	Cazenovia, Canastota and De Ruyter...	1876
Buffalo, Rochester and Pittsburg.....	1886	Cazenovia and De Ruyter.....	1872
Buffalo, Rochester and Pittsburg.....	1887	Cedarhurst.....	1885
Buffalo and South Park Belt Line.....	1887	Central City.....	1859
Buffalo and South Western.....	1878	Central Crostown.....	1873
Buffalo and State Line.....	1849	Central Dock and Terminal.....	1889
Buffalo and Springville.....	1871	Central Elevated Railway.....	1869
Buffalo Street.....	1860	Central Elevated Railway.....	1886
Buffalo, Syracuse and Albany.....	1878	Central of Long Island.....	1871
Buffalo, Tonawanda and Niagara Falls Electric.....	1898	Central New England.....	1899
Buffalo and Tonawanda Electric.....	1893	Central New England and Western....	1889
Buffalo, Thousand Islands and Port- land.....	1890	Central New York and Northern.....	1899
Buffalo, Tonawanda and Niagara Falls.....	1853	Central New York and Western.....	1892
Buffalo, Tonawanda and Niagara River.....	1890	Central New York and Western.....	1899
Buffalo Traction.....	1895	Central Park, North and East River...	1860
Buffalo Valley.....	1898	Central Park and Kingsbridge.....	1866
Buffalo and Washington.....	1865	Central Railroad Extension.....	1873
Buffalo and Williamsville.....	1868	Central Saratoga.....	1878
Buffalo and Williamsville.....	1870	Central of Staten Island.....	1870
Buffalo and Williamsville.....	1886	Central (Staten Island).....	1873
Buffalo and Williamsville Electric....	1891	Central Tunnel.....	1881
Buffalo, Williamsville and Northern....	1888	Central Valley.....	1870
Burnet Street Car.....	1886	Chambers Street.....	1877
Bushwick.....	1867	Chambers Street.....	1884
Cairo.....	1884	Chambers Street Crostown.....	1880
		Chambers Street and Grand Street Ferry.....	1884
		Champlain and St. Lawrence.....	1851
		Charlotte Lake View.....	1875
		Charlotte and Lake View.....	1881
		Chateaugay.....	1879

Name of road.	When formed.	Name of road.	When formed.
Chateaugay	1887	Corning and Blossburgh	1851
Chateaugay County	1851	Corning, Cowanesque and Antrim	1873
Chatham and Lebanon Valley	1899	Corning and Olean	1853
Chautauqua Lake	1886	Corning and Painted Post	1886
Chautauqua Lake	1888	Corning and Painted Post Street	1894
Chautauqua Lake	1874	Corning Traction	1894
Chautauqua Valley	1882	Corning and Seneca Lake	1864
Chazy	1893	Cornwall Branch	1869
Chemung	1845	Cornwall Suspension Bridge	1866
Chemung and Ithaca	1837	Cortland and Homer	1833
Chenango Valley	1863	Cortland and Homer	1894
Cherry Valley, Sharon and Albany	1869	Cortland and Homer Traction	1894
Cherry Valley and Mohawk River	1864	Coudersport, Hornellsville and Lack- awanna	1889
Cherry Valley and Sprakers Horse Power Railroad Company	1880	Court Street and East End	1886
Cherry Valley and Susquehanna	1836	Court Street and River Side	1833
Chittenango and White Sulphur Springs	1895	Court Street and River Side	1886
Christopher and Tenth Street	1873	Coxsackie and Greenville Traction	1897
Christopher Street and James Slip Ferry	1885	Coxsackie and Greenville Traction	1899
Citizens' Electric	1887	Coxsackie and Schenectady	1837
Citizens' Electric (Corning)	1892	Crescent (Long Island City)	1892
Citizens' Railway	1885	Cross Country	1897
Citizens' Railway of Jamestown	1890	Crosstown Street (Buffalo)	1890
Citizens' Street (Poughkeepsie)	1890	Crosstown (Rochester)	1889
Citizens' Street Railroad Company of Rochester	1885	Croton Valley	1886
Citizens' Surface	1888	Croton Valley Electric	1886
City (Binghamton)	1883	Cypress Hill Railway	1873
City Island	1884	Dansville and Rochester	1883
City Line and Canarsie	1869	Dansville Electric	1888
City of Poughkeepsie	1869	Dansville and Mount Morris	1891
City (Poughkeepsie)	1878	Davenport	1888
City Railway Company of New York	1888	Davenport, Middleburgh and Dur- ham	1892
Clayton and Theresa	1871	DeKalb Avenue and North Beach	1897
Clinton Avenue	1864	Delaware	1834
Clinton and South Clinton	1853	Delaware	1896
Clove Branch	1868	Delaware Terminal	1897
Clyde and Sodus Bay	1853	Delaware Valley	1896
Coeymans	1836	Delaware and North River	1889
Cohoes City	1894	Delaware and Otsego	1887
Cohoes and Waterford	1863	Delaware and Hudson River	1883
Cohoes and Waterford	1867	Delhi and Middletown	1871
Cohoes and Waterford	1872	Deer Park and Babylon	1893
Cold Springs	1839	Deerfield and Utica	1888
Colonial City Electric	1893	Depot Belt Line	1890
Colonial City Traction	1896	Depew and Southwestern	1895
Columbia County Electric	1895	Depew and Tonawanda	1896
Columbia and Rensselaer	1886	Dexter and Brownville Street	1896
Columbia Street and Erie Basin	1866	Dexter and Ontario	1889
Columbus and Ninth Avenue	1892	Division Avenue	1883
Concourse	1880	Dry Dock, East Broadway and Bat- tery	1893
Conesus Lake	1882	Dunderberg Spiral	1889
Coney Island Beach	1877	Dunkirk, Allegheny Valley and Pitts- burgh	1872
Coney Island and Brooklyn	1860	Dunkirk and Chautauqua Lake	1866
Coney Island Centre and Safety Rails Elevated	1880	Dunkirk, Chautauqua Lake and Pitts- burgh	1873
Coney Island and East River	1876	Dunkirk and Fredonia	1864
Coney Island Electrical	1887	Dunkirk and Fredonia Rapid Transit	1891
Coney Island Elevated	1880	Dunkirk and Hickoryhurst	1899
Coney Island, Fort Hamilton and Brooklyn	1892	Dunkirk and Junction	1879
Coney Island, Fort Hamilton and Brooklyn	1894	Dunkirk and Point Gratiot	1893
Coney Island and Gravesend	1893	Dunkirk, Warren and Pittsburg	1867
Coney Island High and Low-water Mark	1877	Dunkirk, Warren and Pittsburg	1870
Coney Island and Rockaway	1878	Dutchess	1832
Coney Island and Sea View Elevated	1880	Dutchess	1886
Coney Island, Sheephead Bay and Ocean Avenue	1880	Dutchess and Columbia	1866
Coney Island Surface	1877	Dutchess County	1880
Coney Island Surface	1889	Dutchess Extension	1889
Coney Island Transit	1880	East Branch Connecting	1889
Connecting Terminal	1881	East Brooklyn Railroad	1874
Cooperstown and Charlotte Valley	1888	East Brooklyn Railway	1873
Cooperstown and Charlotte Valley	1891	East Brooklyn, Winfield and New- town	1897
Cooperstown and Cherry Valley	1837	East Buffalo Terminal	1883
Cooperstown and Susquehanna Val- ley	1865	East Chester	1886
Copenhagen and Turin	1866	Eastern Branch of the Dutchess and Columbia	1886
		Eastern Railroad Company of Long Island	1870

DATE WHEN COMPANIES FORMED.

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Name of road.	When formed.
East Genesee Street and Seward Avenue	1871
East Genesee Street and Seward Avenue Railway	1881
East New York, Bayside and Ozone Park	1885
East New York and Jamaica	1860
East New York and Jamaica Bay	1865
East and North River	1861
East and North River	1884
East River and Atlantic Ocean	1896
East River Bridge and Coney Island Transit	1881
East River, Central Park and North River	1889
East River and Connecticut Railway	1881
East River Railway	1890
East River and Newtown	1885
East River Tunnel	1885
East Side (Elmira)	1891
East Side Traction	1899
East Side and Mt. Vernon Railway	1881
East Side and New Rochelle Patent Railway	1886
East Side Railway	1868
East Side of Rochester	1887
East and West	1890
East and West Ferries	1887
Eastwood and East Syracuse	1898
Edenwald Street	1895
Eddyville and Hickory Bush	1894
Eighth Avenue	1855
Eighth Ward (Syracuse)	1889
Electric (Auburn)	1893
Eleventh Ward Street	1889
Elmira, Canandaigua and Niagara Falls	1857
Elmira Connecting	1882
Elmira, Cortland and Northern	1884
Elmira and Corning	1899
Elmira and Horseheads	1871
Elmira, Jefferson and Canandaigua	1859
Elmira and Lake Ontario	1886
Elmira and Seneca Lake	1896
Elmira and State Line	1872
Elmira Transfer	1885
Elmira and Williamsport	1832
Elmira and Williamsport	1860
Elmwood Avenue and Tonawanda Electric	1893
Empire City Traction	1895
Erie	1895
Erie and Black Rock	1882
Erie and Cattaraugus	1837
Erie and Central New York	1883
Erie and Genesee Valley	1868
Erie International	1872
Erie and New England	1868
Erie and New York City	1852
Erie and Niagara River	1882
Erie Railway	1861
Erie, Rochester and Lake Ontario Terminal	1884
Fallsburgh and Monticello	1897
Fallsburgh and Monticello (amended)	1897
Far Rockaway Beach	1881
Far Rockaway Branch	1868
Ferry Crosstown	1885
Fifth Avenue	1884
Fifth Avenue	1885
Fifth Ward	1868
Fifty-second, Fifty-third Streets and Boulevard	1886
Fifty-ninth Street	1885
Fiftieth Street, Astoria Ferry and Central Park	1890
First Avenue and Jersey Ferries	1864
Fish House and Amsterdam	1832
Fishkill	1868
Fishkill Electric	1895
Fishkill and Matteawan Street	1886
Fishkill and Newburgh	1876

Name of road.	When formed.
Fitchburg	1842
Fitchburg	1887
Fitchburg	1892
Flatbush, Coney Island and Canarsie	1864
Flatbush, Coney Island Park and Concourse	1876
Flushing	1852
Flushing	1868
Flushing and College Point	1866
Flushing and College Point Electric	1894
Flushing and College Point Electric Street	1887
Flushing and College Point Street	1886
Flushing, Newtown and Long Island City	1892
Flushing, North Shore and Central	1874
Flushing and North Side	1868
Flushing and South Shore	1898
Flushing Village	1871
Flushing and Woodside	1864
Fonda and Fultonville	1875
Fonda and Fultonville Electric	1898
Fonda, Johnstown and Gloversville	1867
Forestport	1868
Fort Ann and Mount Hope	1871
Fort Edward, Glens Falls and Sandy Hill	1868
Fort Hamilton and Coney Island	1881
Fort Hamilton and New York Elevated	1888
Fort George Extension	1898
Fort George and Eleventh Avenue	1898
Fort Plain and Richfield Springs	1887
Fort George and Eleventh Avenue	1898
Fort Plain and Richfield Springs	1892
Fort Plain Street	1887
Fort Pond Bay	1853
Forty-second Street Crosstown	1877
Forty-second Street and Grand Street Ferry	1863
Forty-second Street, Manhattanville and St. Nicholas Avenue	1878
Fourteenth Street District Railway	1885
Fourth Ward (Syracuse)	1888
Frankfort and Ilion	1871
Frankfort and Utica Street	1895
Franklin Avenue	1887
Fredonia and Lilly Dale	1899
Fredonia and Van Buren	1836
Friendship	1881
Fulton	1864
Fulton Chain	1896
Fulton and Cortlandt Street Ferry	1884
Fulton and Cortlandt Street Ferry Railway	1884
Fulton Elevated	1888
Fulton Ferry and Canarsie Bay	1868
Fulton Ferry and Prospect Park	1867
Fulton Ferry and Tenth Avenue	1865
Fulton and Montgomery County Electric	1892
Fulton and Oswego	1885
Fulton and Oswego Falls Street	1885
Fulton Street	1895
Fulton Street Crosstown	1887
Fulton, Wall Street and Cortlandt Street Ferries	1885
Gallupville	1869
Garnerville	1875
Geddes Street Railway	1886
Genesee Falls	1886
Genesee and Hudson	1852
Genesee Valley	1856
Genesee Valley Canal	1890
Genesee Valley Junction	1882
Genesee Valley Terminal	1882
Genesee and Water Street	1865
Genesee and Wyoming Valley Ry.	1891
Genesee and Wyoming Railroad	1899
Genesee	1848
Genesee and Pittsford	1836
Geneva and Canandaigua	1828

Name of road.	When formed.	Name of road.	When formed.
Geneva and Cattaraugus.....	1837	Harlem, Mott Haven and Morris Avenue.....	1890
Geneva Electric.....	1890	Harlem River.....	1883
Geneva and Hornellsville.....	1876	Harlem River and High Bridge.....	1883
Geneva, Hornellsville and Pine Creek.....	1876	Harlem River and Port Chester.....	1898
Geneva and Ithaca.....	1870	Harlem River and Port Chester Rapid Transit.....	1890
Geneva, Ithaca and Athens.....	1874	Harlem River and Woodstock.....	1896
Geneva, Ithaca and Sayre.....	1877	Harlem River and Tarrytown.....	1864
Geneva and Lyons.....	1877	Harlem and Riverdale Park.....	1895
Geneva and Sayre.....	1889	Hartford and Connecticut Western.....	1881
Geneva and Southwestern.....	1871	Hayt's Corners, Ovid and Willard.....	1883
Geneva, Southwestern and Hornellsville.....	1878	Hempstead Traction.....	1894
Geneva Surface.....	1891	Hempstead and Jamaica.....	1865
Geneva and Van Etenville.....	1889	Hempstead and Smithtown.....	1873
Geneva and Waterloo.....	1893	Hempstead and Rockaway.....	1879
Geneva, Waterloo, Seneca Falls and Cayuga Lake Traction.....	1895	Henning Rapid Transit.....	1891
Gilbert Elevated.....	1872	Herkimer and Mohawk.....	1871
Gilboa.....	1839	Herkimer, Mohawk, Ilion and Frankfurt Electric.....	1895
Glendale and East River.....	1874	Herkimer, Newport and Poland Narrow Gauge.....	1890
Glens Falls.....	1867	Herkimer, Newport and Poland Extension.....	1891
Glens Falls, Sandy Hill and Fort Edward.....	1885	Herkimer and Trenton.....	1834
Glens Falls Street.....	1885	Hicksville and Cold Springs Branch.....	1883
Glen Haven.....	1893	Hicksville and Huntington.....	1865
Gloversville and Broadalbin.....	1895	High Bridge.....	1866
Gloversville and Kingsboro.....	1874	High Bridge Elevated Incline.....	1883
Gloversville, Mayfield and Northville.....	1868	Highland Junction.....	1881
Gloversville and Northville.....	1872	Highland Trans-Hudson.....	1881
Gloversville Street Electric.....	1891	Hobart Branch.....	1884
Goshen.....	1898	Honcoys.....	1834
Goshen and Albany.....	1842	Hoosick.....	1893
Goshen and Deckertown.....	1867	Hoosick Tunnel and Saratoga Railway.....	1881
Goshen and New Jersey.....	1837	Hornell Street.....	1888
Gouverneur and Adirondack.....	1890	Hornellsville.....	1883
Gouverneur and Edwards.....	1890	Hornellsville and Almond Street.....	1873
Gouverneur and Oswegatchie.....	1882	Hornellsville and Canisteo.....	1892
Grand Street.....	1859	Hornellsville and Cohocton Valley.....	1883
Grand Street Central Transit.....	1884	Hornellsville Electric.....	1891
Grand Street Ferry and Middle Village.....	1869	Hornellsville and West Union.....	1889
Grand Street and Maspeth.....	1869	Horseheads and Elmira Avenue.....	1871
Grand Street and Newtown.....	1860	Houston and Hoboken.....	1896
Grand Street, Prospect Park and Flatbush.....	1870	Houston, West Street and Pavonia Ferry.....	1874
Grand View Beach.....	1869	Hudson Avenue.....	1867
Gravessend, Flatlands, Flatbush and Brooklyn.....	1890	Hudson and Berkshire.....	1828
Great Ausable.....	1823	Hudson and Boston.....	1855
Great Neck and Port Washington.....	1894	Hudson Connecting.....	1887
Great Valley and Bradford.....	1881	Hudson and Delaware.....	1890
Greenbush and Nassau Electric.....	1897	Hudson Electric.....	1883
Greene.....	1833	Hudson, Highland Bridge and Railway.....	1896
Greene.....	1869	Hudson and Kinderhook.....	1871
Greene County Traction.....	1897	Hudson Light and Power.....	1899
Greenpoint and Calvary.....	1865	Hudson and Mohawk.....	1899
Greenpoint and Lorimer Street.....	1884	Hudson River.....	1844
Greenpoint, Prospect Park and Greenwood.....	1866	Hudson River and Berkshire.....	1897
Greenpoint and Williamsburgh.....	1864	Hudson River and Boston.....	1895
Greenwich and Johnsonville.....	1869	Hudson River and Cornell.....	1896
Greenwich and Johnsonville.....	1874	Hudson River and Long Island Sound.....	1897
Greenwich and Johnsonville Railway.....	1879	Hudson River and Washington County Midland.....	1896
Greenwich and Schuylerville Electric.....	1895	Hudson River West Shore.....	1867
Greenwood and Coney Island.....	1873	Hudson and St. Lawrence Street.....	1873
Greenwood Lake and Port Jervis.....	1888	Hudson, Suspension Bridge and New England.....	1870
Greigsville and Pearl Creek.....	1897	Hudson Tunnel.....	1873
Hamburg.....	1895	Hudson Tunnel.....	1899
Hamilton Avenue and Prospect Park.....	1869	Hudson Tunnel, of New York.....	1899
Hamilton Avenue, Prospect Park and Flatbush.....	1868	Hudson Tunnel Railway.....	1890
Hamilton Ferry and Canarsie.....	1870	Hudson Valley.....	1870
Hancock and Pennsylvania.....	1889	Hudson and West Shore.....	1899
Hancock and State Line.....	1889	Huguenot Electric.....	1898
Harlem Bridge, Morrisania and Fordham.....	1863	Hunter's Point Avenue and Calvary Cemetery.....	1893
Harlem, Brook Avenue and Woodstock.....	1890	Hunter's Point and Flushing.....	1873
Harlem Crosstown.....	1885	Hunter's Point, Ravenwood and Astoria.....	1894
Harlem Extension.....	1870	Hunter's Point and Rockaway Beach.....	1867
Harlem and Kings Bridge.....	1893		

DATE WHEN COMPANIES FORMED.

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Name of road.	When formed.	Name of road.	When Formed.
Hunter's Point and South Side.....	1870	Kingston and Utica.....	1892
Huntington Street.....	1887	Kingston, Warwick and Easton.....	1883
Huntington Street.....	1890	Lackawanna and Pittsburg.....	1833
Ilion Street.....	1875	Lackawanna and Southwestern.....	1889
International.....	1861	Lackawanna and Susquehanna.....	1867
International and Oak Orchard Har- bor.....	1894	Lackawanna, Catskill Mountain and Boston.....	1893
Iron Hill.....	1873	Lake Champlain and Moriah.....	1867
Irondequoit Park.....	1896	Lake Champlain and Ogdensburg.....	1832
Island.....	1883	Lake Mahopac and Connecticut.....	1886
Ithaca.....	1884	Lake Ontario.....	1874
Ithaca and Athens.....	1870	Lake Ontario and Auburn.....	1866
Ithaca and Auburn.....	1836	Lake Ontario, Auburn and New York.....	1852
Ithaca, Auburn and Western.....	1876	Lake Ontario and Hudson River.....	1867
Ithaca and Cortland.....	1869	Lake Ontario and Riverside.....	1896
Ithaca and Geneva.....	1832	Lake Ontario Shore.....	1868
Ithaca and Oswego.....	1828	Lake Ontario Southern.....	1880
Ithaca and Port Renwick.....	1884	Lake and River Improvement and Railroad Land Company of the New York Wilderness.....	1865
Ithaca and Tonawanda.....	1866	Lake Shore and Michigan Southern.....	1869
Interstate Traction Company.....	1892	Lansingburgh and Cohoes.....	1890
Irondequoit and Lake Shore Electric.....	1895	Lansingburgh and Troy.....	1853
Irondequoit Park.....	1896	Lansingburgh and Troy.....	1872
Jackson and Steinway Avenue Rail- road Company of Long Island.....	1879	Larchmont Horse.....	1888
Jamaica and Brooklyn Road.....	1880	Laurel Hill, New Calvary and Luth- eran Cemetery.....	1885
Jamaica and Middle Village.....	1866	Lawrenceville and Erie.....	1874
Jamaica, Woodhaven and Brooklyn.....	1872	Lebanon Springs.....	1852
Jamestown.....	1871	Lebanon Springs.....	1893
Jamestown.....	1883	Lehigh and Hudson River.....	1832
Jamestown and Chautauqua.....	1898	Lehigh and Lake Erie.....	1896
Jamestown and Lake Erie.....	1894	Lehigh and New York.....	1895
Jamestown and Northern.....	1885	Lehigh Valley.....	1882
Jamestown Short-Line Railway.....	1886	Lehigh Valley.....	1882
Jamestown Street.....	1882	Lehigh Valley.....	1890
Jamestown Terminal.....	1898	Lehigh and Pavilion.....	1893
Jameville.....	1836	Le Roy and Northern.....	1895
Jasper, Troupsburg and Knoxville.....	1897	Lewiston.....	1836
Jerome Avenue.....	1889	Lewiston and Youngstown.....	1892
Jerome Park.....	1880	Lewiston and Youngstown Frontier.....	1895
Jerome Park Branch.....	1876	Lexington Avenue and Fourteenth Street.....	1884
Jersey City and Albany.....	1873	Lexington Avenue and South Ferry.....	1886
Jersey City and Albany Railway.....	1879	Lexington Avenue.....	1892
Jersey City and Albany Railroad Company of the States of New York and New Jersey.....	1879	Lexington Avenue and Pavonia Ferry.....	1892
Jersey Ferries and First Avenue.....	1865	Liberty and Jeffersonville Electric.....	1897
Johnsonville and Rutland.....	1890	Lincoln Park and Charlotte.....	1888
Johnstown.....	1836	Lima-Honeoye Electric Light.....	1898
Johnstown, Gloversville and Kings- boro.....	1873	Lima-Honeoye Electric Light and Railroad Company.....	1898
Jordan and Skaneateles.....	1837	Lima and Honeoye Falls.....	1892
Junction.....	1870	Lima Railway.....	1897
Junction Railway.....	1865	Little Falls and Dolgeville.....	1891
Kanona and Prattsburgh.....	1886	Little Falls, Dolgeville and Piseco Lake.....	1883
Kanona and Prattsburgh.....	1897	Little Falls and Herkimer Street.....	1895
Kaaterskill.....	1882	Little Falls Street.....	1896
Kaaterskill and Plattekill.....	1892	Little Falls and Richfield Springs.....	1895
Keeseville, Ausable Chasm and Lake Champlain.....	1889	Little Falls, Van Hornesville and Ot- sego Lake Narrow Gauge.....	1889
Keeseville and Montreal.....	1869	Liverpool and Syracuse.....	1868
Kinderhook and Hudson.....	1889	Livonia and Lake Conesus.....	1895
Kinderhook and Hudson.....	1896	Lock City Electric.....	1892
Kinderhook, Valatie and Stuyvesant.....	1887	Lockport Street.....	1886
Kinderhook, Valatie and Niverville.....	1887	Lockport and Batavia.....	1836
Kingsbridge.....	1898	Lockport and Buffalo.....	1871
Kings Bridge Cable Railway.....	1886	Lockport and Niagara Falls.....	1834
Kings Bridge, High Bridge and Forty-second Street.....	1864	Lockport and Northern.....	1889
Kings Bridge and Yonkers.....	1876	Lockport and Olcott Beach.....	1891
Kings County.....	1878	Lockport and Youngstown.....	1886
Kings County Central.....	1876	Lockport City and Olcott Electric.....	1894
Kings County Elevated.....	1879	Locust Grove and Brighton Beach.....	1879
Kings County Elevated.....	1899	Long Beach Marine.....	1881
Kings County Electric.....	1892	Long Island.....	1834
Kings, Queens and Suffolk.....	1895	Long Island Boynton Bicycle.....	1891
Kingston City.....	1879	Long Island City Calvary Cemetery.....	1871
Kingston City Electric.....	1892	Long Island City and Flushing.....	1881
Kingston and Lake Katrine.....	1896	Long Island City and Manhattan Beach.....	1883
Kingston and Rondout.....	1865	Long Island City and Maspeth.....	1873
Kingston and Rondout Valley.....	1897	Long Island City and Newtown.....	1883
Kingston Turnpike and Railroad Company.....	1885		

Name of road.	When formed.	Name of road.	When formed.
Long Island City and Sea Beach.....	1886	Midwout, Amersfort and Coney Island.....	1877
Long Island City Shore.....	1874	Milford, Matamoras and New York.....	1897
Long Island Elevated Railway.....	1886	Mineola, Hempstead and Freeport.....	1899
Long Island Electric.....	1894	Mohawk and Adirondack.....	1891
Long Island New York Terminal.....	1892	Mohawk and Hudson.....	1826
Long Island, North Shore Branch.....	1892	Mohawk and Ilion.....	1870
Long Lake.....	1895	Mohawk and Lake Erie Railway.....	1881
Lyons Street Surface.....	1889	Mohawk and Malone.....	1892
Madison Avenue and Eighty-sixth Street.....	1886	Mohawk and Moose River.....	1857
Madison Avenue and Twenty-third Street.....	1886	Mohawk and St. Lawrence Railroad Navigation Company.....	1837
Madison Avenue Underground.....	1880	Mohawk and St. Lawrence.....	1890
Madison County.....	1829	Mohawk and Susquehanna Valley.....	1887
Mahopac Falls.....	1884	Mohawk Valley.....	1851
Main and Ohio Street.....	1859	Mohawk Valley and Plasco.....	1863
Malden.....	1837	Mohawk Valley and Northern.....	1890
Malden.....	1863	Mohawk and Northern.....	1891
Malone and Canada.....	1883	Monroe and Greenwood Lake.....	1877
Malone and St. Lawrence.....	1891	McNagoe Street Railway.....	1885
Malone and Schenectady.....	1892	Montgomery and Erie.....	1866
Manaos.....	1893	Montgomery and Erie.....	1886
Manhattan Beach Extension.....	1883	Monticello, Fallsburgh and New York.....	1883
Manhattan Beach and West Brighton.....	1879	Monticello and Port Jervis.....	1868
Manhattan Elevated.....	1875	Montreal and Plattsburgh.....	1868
Manhattan Railroad.....	1879	Montauk Extension.....	1892
Manhattan Railway.....	1854	Morris Avenue.....	1885
Manhattan Railway.....	1867	Mountain Lake Electric.....	1896
Manhattan Railway.....	1894	Mount McGregor.....	1882
Manhattan Surface.....	1887	Mount McGregor.....	1889
Manhattan Tunnel.....	1899	Mount Prospect and Carroll Street.....	1873
Manhattan and Jersey City.....	1899	Mount Vernon and East Chester.....	1885
Manhattan and Jersey City (amended).....	1899	Mount Vernon and East Chester.....	1887
Mann's Boudoir Car.....	1853	Mount Vernon and Yonkers.....	1885
Manheim and Salisbury.....	1834	Mount Vernon and New York.....	1891
Maple Avenue.....	1887	Municipal Street.....	1899
Marcellus Electric.....	1897	Myrtle Avenue Branch.....	1881
Marginal.....	1877	Nanuet and New City.....	1841
Marine.....	1878	Nassau.....	1865
Maspeth Railroad and Bridge Company.....	1868	Nassau Belt Line Traction.....	1899
Massena Electric.....	1899	Nassau Cable.....	1884
Massena Springs and Fort Covington.....	1884	Nassau County.....	1899
Matamoras and New York.....	1898	Nassau Electric (Brooklyn).....	1893
Mayville Extension.....	1881	Neversink Valley.....	1899
Mayville and Portland.....	1832	Newark.....	1836
Mechanicville and Fort Edward.....	1880	New Brighton and Onondaga Valley.....	1869
Medina and Darlen.....	1884	Newburgh, Dutchess and Connecticut.....	1877
Medina and Lake Ontario.....	1836	Newburgh.....	1863
Melrose and West Morrisania.....	1886	Newburgh.....	1863
Metropolitan Crosstown.....	1889	Newburgh.....	1886
Metropolitan Elevated.....	1872	Newburgh Electric.....	1894
Metropolitan Elevated.....	1878	Newburgh Electric.....	1897
Metropolitan Railroad.....	1864	Newburgh and Kingston.....	1869
Metropolitan Railway.....	1864	Newburgh and Middletown.....	1866
Metropolitan Street.....	1893	Newburgh and Midland.....	1870
Metropolitan Street.....	1894	Newburgh and Orange Lake.....	1894
Metropolitan Street.....	1895	Newburgh, New Windsor and Balmville.....	1893
Metropolitan Surface.....	1885	Newburgh and New York Railroad.....	1864
Metropolitan Surface.....	1886	Newburgh and New York Railroad.....	1865
Metropolitan Transit.....	1867	Newburgh and Poughkeepsie.....	1887
Metropolitan Transit.....	1872	Newburgh and Walkkill Valley.....	1868
Metropolitan Tunnel.....	1899	New England.....	1886
Metropolitan Underground.....	1891	New England, New York and Pennsylvania.....	1878
Mexican Mineral Railway Company.....	1899	New England, Lackawanna and Pittsburg.....	1883
Middleburgh and Oak Hill Traction.....	1897	New England and Southwestern.....	1886
Middleburgh and Schoharie.....	1867	New England and Western.....	1887
Middle Central.....	1878	New Hamburg and Poughkeepsie Connecting.....	1893
Middletown and Crawford.....	1868	New Jersey and Hudson River.....	1881
Middletown-Bloomingsburgh Electric.....	1895	New Jersey and New England.....	1873
Middletown-Goshen Traction.....	1893	New Jersey and New York.....	1876
Middletown-Goshen Traction.....	1895	New Jersey and New York Extension.....	1886
Middletown-Goshen Electric.....	1899	New Jersey and Staten Island Junction.....	1886
Middletown Horse.....	1870	New Palts and Highland Electric.....	1892
Middletown Street.....	1889	New Palts and Walkkill Valley.....	1897
Middletown Street Railroad and Power.....	1892		
Middletown, Unionville and Water Gap.....	1866		
Middle Village.....	1867		
Middlesex Valley.....	1892		

Name of road.	When formed.
New Rochelle Electric.....	1897
New Rochelle and Pelham.....	1886
New Rochelle Street Horse Railroad.....	1836
New Rochelle Street Railway.....	1885
New Rochelle Railway and Transit Company.....	1890
Newtown.....	1894
Newtown Creek Terminal.....	1896
Newtown and Flushing.....	1871
New Williamsburg and Flatbush.....	1873
New York.....	1860
New York Beach.....	1897
New York and Albany.....	1832
New York and Albany.....	1867
New York and Atlantic.....	1830
New York and Atlantic Coast.....	1830
New York Bay Extension.....	1892
New York, Bay Ridge and Jamaica.....	1876
New York and Boston.....	1869
New York and Boston.....	1892
New York, Boston and Albany.....	1850
New York, Boston, Albany and Schenectady.....	1880
New York and Boston Extension.....	1872
New York, Boston and Montreal.....	1873
New York and Boston Inland.....	1882
New York, Boston and Northern.....	1873
New York and Brighton Beach.....	1879
New York and Brooklyn.....	1891
New York and Brooklyn Elevated.....	1880
New York and Brooklyn Marine.....	1880
New York, Brooklyn and Manhattan Beach.....	1886
New York, Brooklyn and Rockaway.....	1881
New York, Brooklyn and Sea Beach.....	1878
New York, Brooklyn and Sea Shore.....	1877
New York and Brooklyn Tunnel.....	1895
New York and Brooklyn Tunnel.....	1896
New York and Brighton Beach.....	1878
New York Cable.....	1884
New York and Canada.....	1872
New York Canadian Pacific.....	1891
New York Central.....	1853
New York Central and Hudson River.....	1869
New York Central, Hudson River and Fort Orange.....	1884
New York Central Niagara River.....	1877
New York, Chicago and St. Louis.....	1881
New York, Chicago and St. Louis.....	1887
New York City.....	1884
New York City Croastown.....	1863
New York City Underground.....	1868
New York City and Northern.....	1878
New York City Rapid Transit.....	1872
New York City Suburban Surface.....	1883
New York and Coney Island.....	1879
New York, Coney Island and Rockaway.....	1879
New York and Connecticut.....	1846
New York, Connecticut and Eastern of New York.....	1880
New York Connecting.....	1892
New York and Croton River.....	1871
New York and Croton River Extension.....	1872
New York, Danbury and Boston.....	1883
New York District Railway.....	1885
New York and East River.....	1882
New York Elevated.....	1871
New York and Erie.....	1832
New York, Elmsford and White Plains.....	1892
New York and Flushing.....	1859
New York, Fordham and Bronx.....	1886
New York, Fort Hamilton and Coney Island.....	1880
New York, Greenwood and Coney Island.....	1879
New York Harbor.....	1887
New York and Harlem.....	1881
New York and Hempstead.....	1871
New York and Hempstead Plains.....	1870

Name of road.	When formed.
New York and Highland Suspension Bridge Company.....	1869
New York, Housatonic and Northern.....	1884
New York and Jamaica.....	1869
New York and Jersey City.....	1891
New York, Kingston and Syracuse.....	1872
New York, Lackawanna and Western.....	1880
New York and Lake Mahopac.....	1861
New York, Lake Erie and Western.....	1878
New York and Long Beach.....	1880
New York and Long Island.....	1887
New York, Long Island and Rockaway.....	1879
New York and Long Island Suburban.....	1891
New York and Mahopac.....	1871
New York and Manhattan Beach.....	1877
New York, Mapleton and Van Pelt Manor.....	1892
New York and Long Island.....	1899
New York and Massachusetts.....	1887
New York and Newburgh.....	1884
New York and New England.....	1873
New York, New England and Northern.....	1892
New York, New Haven and Hartford.....	1872
New York and New Jersey.....	1873
New York and New Jersey Railway.....	1891
New York and New Jersey Terminal.....	1891
New York and New Jersey Tunnel.....	1883
New York, New Jersey and Eastern.....	1892
New York and New Rochelle.....	1862
New York Northern.....	1888
New York and Northern.....	1886
New York and Northern.....	1880
New York and Northern.....	1887
New York Northern Central.....	1866
New York and North Salem.....	1871
New York and North Shore.....	1897
New York, Ontario and Western.....	1880
New York and Oswego Midland.....	1866
New York and Ottawa.....	1897
New York and Palisade.....	1886
New York and Pennsylvania.....	1896
New York and Pennsylvania.....	1896
New York, Pennsylvania and Ohio.....	1880
New York, Pennsylvania and West-ern.....	1881
New York and Putnam.....	1894
New York and Queens County Tunnel.....	1891
New York and Queens County.....	1896
New York and Queens County.....	1896
New York Quick Transit.....	1874
New York Railway.....	1871
New York, Richfield Springs and Cooperstown.....	1882
New York and Rockaway.....	1871
New York and Rockaway Beach.....	1876
New York and Rockaway Beach.....	1887
New York, Rockaway and Long Island.....	1880
New York, Rutland and Montreal.....	1883
New York and Sea Beach Railroad.....	1876
New York and Sea Beach Railway.....	1883
New York, Sea Beach and Coney Island.....	1878
New York and South Beach.....	1891
New York and South Side.....	1874
New York and South Mount Vernon.....	1892
New York State.....	1873
New York Suburban Railway.....	1886
New York Surface Railway.....	1886
New York and Troy.....	1862
New York Tunnel.....	1880
New York Underground.....	1880
New York Underground Extension.....	1874
New York, Utica and Ogdensburg.....	1870
New York City and Westchester.....	1887
New York, Westchester and Boston.....	1872
New York, Westchester and Connecticut Traction.....	1895

Name of road.	When formed.	Name of road.	When formed.
New York and Westchester County..	1869	Norwood and Montreal.....	1884
New York, Westchester and Putnam..	1877	Nostrand Avenue and Park.....	1870
New York, Westchester and Putnam..	1887	Nyack and Northern.....	1888
New York and Western.....	1863	Nyack and Southern.....	1899
New York Western Midland.....	1872	Nyack Traction.....	1886
New York, West Shore and Buffalo..	1880	Nypano.....	1896
New York, West Shore and Buffalo- Railway.....	1881	Oak Hill Iron.....	1889
New York, West Shore and Chicago..	1870	Oak Hill Traction.....	1897
New York, White Plains and Mamar- oneck.....	1892	Oatka Valley.....	1883
New York and White Plains.....	1871	Ocean Bay and Sheepshead Bay Rail- way.....	1881
New York, Woodhaven and Rocka- way.....	1877	Ocean Electric.....	1897
New York and Yonkers.....	1869	Ocean Palace Elevated.....	1877
New York and Yonkers.....	1892	Ocean Parkway Transit.....	1883
Niagara Bridge and Canandaigua....	1868	Ogdensburg.....	1857
Niagara Electric.....	1893	Ogdensburg.....	1886
Niagara Falls.....	1871	Ogdensburg, Clayton and Rome....	1853
Niagara Falls Branch.....	1876	Ogdensburg and Lake Champlain -Railroad.....	1864
Niagara Falls, Buffalo and New York..	1852	Ogdensburg and Lake Champlain Railway.....	1896
Niagara Falls Street.....	1896	Ogdensburg and Morristown.....	1871
Niagara Falls and Lake Ontario.....	1852	Ogdensburg and Morristown.....	1877
Niagara Falls and La Salle.....	1890	Ogdensburg Street Railway.....	1886
Niagara Falls and Lewiston.....	1849	Old Forge.....	1894
Niagara Falls and Lewiston.....	1890	Olean.....	1880
Niagara Falls and Suspension Bridge..	1882	Olean, Bradford and Warren.....	1877
Niagara Falls and Whirlpool Rail- way.....	1886	Olean, Rock City and Bradford.....	1897
Niagara Falls, Whirlpool and North- ern.....	1894	Olean Street.....	1880
Niagara Gorge.....	1899	Olean Terminal.....	1897
Niagara Junction.....	1892	Olean and Salamanca.....	1883
Niagara River.....	1852	One Hundred and Fifty-fifth Street..	1886
Niagara River Street.....	1890	One Hundred and Sixteenth Street and Fort Lee Ferry.....	1886
Niagara River and Erie.....	1889	One Hundred and Twenty-fifth Street..	1871
Niagara River and New York Air Line.....	1872	Oneida.....	1886
Niagara Shore Terminal.....	1891	Oneida Horse.....	1874
Niagara Street.....	1869	Oneida, Oneonta and New York.....	1869
Ninth Avenue.....	1869	Oneida Street.....	1887
Ninth Street, Brooklyn Ferry and Suburban.....	1893	Oneida Valley.....	1864
North End Street.....	1896	Oneonta Street.....	1887
North and East Greenbush.....	1873	Oneonta and Earlville.....	1872
North and East Greenbush.....	1882	Oneonta and Earlville.....	1878
North and East River.....	1885	Oneonta and Otego Valley.....	1897
North and South Electric.....	1894	Oneonta and Otego Valley.....	1897
North and New York City Traction..	1895	Oneonta and Richfield Springs.....	1888
Northern.....	1845	Onondaga Lake.....	1890
Northern Adirondack.....	1883	Onondaga Lake.....	1896
Northern Adirondack.....	1890	Ontario, Carbondale and Scranton..	1888
Northern Adirondack Extension.....	1896	Ontario Southern.....	1876
Northern Air Line.....	1869	Orange County.....	1877
Northern Central New York.....	1867	Orange County.....	1888
Northern Extension of Rochester, Nunda and Pittsburg.....	1872	Oscawana and Cornell.....	1892
Northern of New Jersey.....	1854	Ossining.....	1888
Northern New York.....	1870	Ossining Electric.....	1898
Northern New York.....	1896	Ossining Electric.....	1892
North New York Junction.....	1861	Ossining Street.....	1892
Northern Railroad Company of Long Island.....	1881	Oswego.....	1886
Northern Slackwater and Railroad Company.....	1846	Oswego, Binghamton and New York..	1866
North Mount Vernon.....	1892	Oswego City (Street).....	1870
North New York.....	1886	Oswego City and Town.....	1872
North Park.....	1872	Oswego and Cortland.....	1894
North River.....	1880	Oswego Northern and Eastern.....	1863
North River.....	1881	Oswego Traction.....	1899
North River and Wall Street Ferry..	1862	Oswego and Rome.....	1863
North Second Street and Middle Vil- lage.....	1871	Oswego and Syracuse.....	1839
North Side of Long Island.....	1867	Oswego and Syracuse.....	1892
North Side Railroad Company of Rochester.....	1887	Oswego and Troy.....	1864
North Side (Staten Island).....	1871	Oswego and Utica.....	1886
North Shore.....	1863	Otis Elevating Railway.....	1886
North Shore of Long Island.....	1870	Otis Railway.....	1899
North Shore and Port Washington....	1874	Otsego.....	1822
North Third Avenue and Fleetwood Park.....	1890	Ottawa, St. Lawrence and Schenec- tady.....	1886
		Ottawa, Waddington and New York Railway and Bridge Company of New York.....	1884
		Owasco River Railway.....	1881
		Oyster Bay Extension.....	1898
		Park Avenue.....	1870
		Park Avenue.....	1882

DATE WHEN COMPANIES FORMED.

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Name of road.	When formed.
Patchogue and Port Jefferson Traction	1896
Peekskill Connecting	1896
Peekskill	1893
Peekskill and Cortlandt Electric	1894
Peekskill, State Camp and Mohegan	1894
Peekskill Traction	1898
Peekskill Valley	1887
Pelham Park	1884
Pelham and Fort Chester	1872
Pelham and Travers Island	1889
Penfield and Canal	1837
Pennsylvania and Erie Coal and Railway Company	1875
Pennsylvania, Poughkeepsie and Boston	1887
Pennsylvania, Slatington and New England	1882
Pennsylvania and Sodus Bay	1870
Penn Yan and Geneva	1875
Penn Yan, Keuka Park and Branchport	1897
Penn Yan, Lake Keuka and Southern	1899
Penn Yan and New York	1877
Penn Yan and Pennsylvania	1897
People's	1880
People's (Brooklyn)	1893
People's Electric Street	1888
People's Rapid Transit	1888
People's Surface of Niagara Falls and Suspension Bridge	1891
People's Surface Railway	1885
People's (Syracuse)	1887
People's Traction of City of New York	1896
Perry	1882
Perry Castle, Silver Springs and Pike	1899
Perry, Livingston and Wyoming	1896
Perth Amboy	1885
Philadelphia, Honesdale and Albany	1898
Philadelphia, Honesdale and Albany	1898
Philadelphia, Reading and New England	1892
Piermont and Nyack	1864
Piermont and West Shore	1837
Pine Plains and Albany	1872
Pine Plains and Rhinebeck	1877
Pittsburg, Chautauqua and Lake Erie	1888
Pittsburg, Lackawanna and Northeastern	1882
Pittsburg, Titusville and Buffalo	1880
Plattsburgh and Montreal	1850
Pittsburg and Rouse's Point	1851
Pittsburg, Shawmut and Northern	1899
Plattsburgh Traction	1896
Pochuck	1887
Portage and Cuba Low Grade	1882
Port Byron and Auburn	1828
Port Chester Electric	1895
Port Chester and Tarrytown	1882
Port Chester and Rye Beach Street	1887
Port Chester, Rye and Mamaroneck Electric	1894
Port Chester, Rye and White Plains Electric	1895
Port Chester Street	1896
Port Chester, White Plains and Tarrytown Street	1888
Port Dickinson and Chenango River	1881
Port Jervis Electric	1889
Port Jervis Electric Street	1895
Port Jervis and Monticello	1875
Port Jervis, Monticello and New York	1886
Port Jervis and Suburban	1889
Port Morris and Westchester	1861
Port Richmond and Prohibition Park Electric	1891
Potosi and Rio Verde	1898
Potsdam and Montreal	1881

Name of road.	When formed.
Potsdam and Watertown	1882
Poughkeepsie Bridge	1888
Poughkeepsie City	1866
Poughkeepsie and Connecticut	1888
Poughkeepsie Connecting	1887
Poughkeepsie Bridge and Railroad	1892
Poughkeepsie and Delaware Valley	1887
Poughkeepsie and Eastern	1863
Poughkeepsie and Eastern	1893
Poughkeepsie Grand Junction	1879
Poughkeepsie and Grand Junction	1879
Poughkeepsie, Hartford and Boston	1875
Poughkeepsie, Hartford and New England	1887
Poughkeepsie and Hudson	1889
Poughkeepsie and Southeastern	1886
Poughkeepsie and Southwestern	1883
Poughkeepsie Terminal	1887
Poughkeepsie and Wappingers Falls	1892
Poughkeepsie and Millbrook	1892
Poughkeepsie and New Hamburg	1898
Prince's Bay	1897
Prospect Park and Clarkson Street	1878
Prospect Park and Coney Island	1867
Prospect Park and Coney Island	1874
Prospect Park and Flatbush	1875
Prospect Park and Sea Side	1879
Prospect Park and South Brooklyn	1888
Putnam and Dutchess	1871
Queen City Street	1887
Queens County	1871
Queens Railway	1872
Racket River	1893
Raquette Lake	1899
Raquette River	1895
Rapid Transit (Troy)	1890
Rapid Transit Underground	1897
Rensselaerville and Berne	1869
Rensselaer and Saratoga	1832
Rhinebeck and Connecticut	1898
Rhinebeck and Rhinecliff	1893
Richfield Springs and Cherry Valley	1882
Richfield Springs and Otsego Lake	1866
Richfield Springs and Schuyler Lake	1895
Richmond County	1885
Ridge Road and Lake Shore	1899
Riker Avenue and Sanford's Point	1886
River Bridge	1881
Riverhead, Quogue and Southampton	1897
Riverhead, Quogue and Southampton (amended)	1897
River and Valley Traction	1894
Rochester	1838
Rochester	1890
Rochester Cable	1887
Rochester and Canal	1831
Rochester and Charlotte	1886
Rochester and Charlotte	1881
Rochester and Charlotte Boulevard	1873
Rochester, Charlotte and Manitou	1895
Rochester City and Brighton	1862
Rochester City and Brighton Terminal	1887
Rochester Electric	1887
Rochester and Genesee Valley	1851
Rochester and Genesee Valley Canal	1879
Rochester and Glen Haven	1887
Rochester and Honeoye Valley	1888
Rochester, Hornellsville and Lackawanna	1886
Rochester, Hornellsville and Pine Creek	1872
Rochester and Irondequoit	1878
Rochester and Irondequoit	1893
Rochester and Lake Beach	1888
Rochester and Lake Ontario	1852
Rochester and Lake Ontario	1879
Rochester, Lake Side and Braddock's Bay	1881
Rochester and Lockport	1837
Rochester, Lockport and Niagara Falls	1850

Name of road.	When formed.
Rochester, New York and Pennsylvania	1880
Rochester, New York and Pennsylvania	1881
Rochester, Nunda and Pennsylvania	1870
Rochester, Nunda and Pennsylvania	1871
Rochester, Nunda and Pennsylvania Extension	1872
Rochester, Nunda and Pittsburg	1877
Rochester and Ontario Belt	1882
Rochester and Pine Creek	1870
Rochester and Pittsburg	1883
Rochester and Pittsburg	1881
Rochester and Pittsburg	1882
Rochester and Sodus Bay Railway	1898
Rochester Southern	1896
Rochester and Southern	1882
Rochester and Southern	1881
Rochester and Southern	1896
Rochester State Line	1870
Rochester and Syracuse	1880
Rochester Terminal	1886
Rochester and Windsor Beach Railway	1881
Rochester and Irondequoit	1893
Rockaway Beach and Far Rockaway Marine	1879
Rockaway Beach Railroad	1871
Rockaway Beach Transit	1881
Rockaway and Brooklyn	1883
Rockaway Electric	1885
Rockaway Electric	1897
Rockaway Elevated	1878
Rockaway Railway	1871
Rockaway Surf	1880
Rockaway Village	1886
Rockland Central	1870
Rockland Central Extension	1872
Rockland Lake	1885
Rockland Lake and Valley Cottage	1882
Rome and Boonville	1882
Rome and Carthage	1883
Rome City	1885
Rome and Clinton	1869
Rome and Port Ontario	1837
Rome Street	1874
Rome and Sylvan Beach	1888
Rome, Watertown and Ogdensburg	1860
Rome, Watertown and Ogdensburg Terminal	1886
Rondout and Eddyville	1896
Rondout and Kingston	1863
Rondout and Oswego	1866
Rondout and Port Jervis Railroad	1865
Rondout and Southwestern	1895
Rondout Valley	1890
Roslyn and Huntington	1874
Rutland and Whitehall	1836
Rye Lake	1874
Rye and Westchester	1871
Sacandaga Valley	1871
Sacketts Harbor and Ellisburgh	1851
Sacketts Harbor, Rome and New York	1860
Sacketts Harbor and Saratoga	1852
Sacketts Harbor and Watertown	1855
Sackett Street	1866
Salamanca, Bedford and Allegany River	1881
Salamanca Electric Surface	1890
Salamanca and Warren	1881
Salina and Oakwood Railway	1886
Salina and Port Watson	1829
San Juan and Rio Piedras	1898
Saranac and Lake Placid	1890
Saratoga Electric	1889
Saratoga and Fort Edward	1832
Saratoga and Hudson River	1864
Saratoga Lake	1880
Saratoga Lake	1897
Saratoga Street	1887
Saratoga Traction	1897

Name of road.	When formed.
Saratoga and Montgomery	1836
Saratoga and Mt. McGregor	1882
Saratoga and Mt. McGregor	1896
Saratoga, Mt. McGregor and Lake George	1882
Saratoga Northern	1897
Saratoga Rapid Transit	1890
Saratoga and Schenectady	1831
Saratoga, Schuylerville and Hoosac Tunnel	1870
Saratoga Springs and Schuylerville	1832
Saratoga and St. Lawrence	1885
Saratoga and St. Lawrence Extension	1891
Saratoga and Washington	1834
Saratoga and Whitehall	1855
Sauquoit Valley Electric Street	1890
Schenectady	1886
Schenectady	1895
Schenectady and Albany	1890
Schenectady, Albany and North Adams	1882
Schenectady and Catskill	1846
Schenectady and Catskill	1863
Schenectady City	1873
Schenectady and Duanesburgh	1873
Schenectady and Mechanicville	1867
Schenectady and Ogdensburg	1872
Schenectady and Ogdensburg Narrow Gauge	1882
Schenectady and Susquehanna	1846
Schenectady and Susquehanna	1869
Schenectady and Susquehanna	1870
Schenectady and Troy	1836
Schenectady and Utica Railway	1865
Schoharie and Otsego	1832
Schoharie Street	1872
Schoharie Valley	1865
Schoharie Valley	1874
Schoharie Valley Railway	1880
Schuylerville and Fort Edward	1870
Schuylerville and Moreau	1870
Schuylerville and Upper Hudson	1869
Schuylerville and Upper Hudson	1872
Scottsville and Canandaigua	1833
Scottsville and Le Roy	1836
Sea Beach	1896
Sea Beach and Brighton	1886
Sea Beach and Sheepshead Bay	1886
Sea Breeze Avenue	1881
Sea Cliff Inclined Cable	1885
Sea Side Elevated	1880
Sea Side and Brooklyn Bridge Elevated	1890
Sea Side Transit	1890
Sea View	1886
Sea View of Coney Island	1890
Second Avenue	1853
Sedge Bank	1876
Seneca County	1891
Seneca Falls and Cayuga Lake	1886
Seneca Falls, Restvale and Cayuga Lake Street	1886
Seneca Falls and Waterloo	1889
Seneca Lake Branch	1868
Seventh Ward Railway	1886
Sharon and Root	1833
Sheepshead Bay and Coney Island	1877
Sheepshead Bay and Coney Island	1892
Sheepshead Bay and Sea Shore	1865
Sherman Park and Westchester County	1894
Silver Creek and Dunkirk	1890
Silver Lake	1870
Silver Lake	1877
Sixth Avenue	1851
Skanateles	1836
Skanateles	1866
Skanateles and Jordan	1841
Smithtown and Port Jefferson	1870
Sodus Bay and Corning	1872
Sodus Bay, Corning and New York	1870

Name of road.	When formed.	Name of road.	When formed.
Sodus Bay and Southern.....	1883	Syracuse, Binghamton and New York.....	1857
Sodus Point and Southern.....	1862	Syracuse, Binghamton and New York.....	1886
South Beach.....	1888	Syracuse Branch New York, Utica and Ogdensburg.....	1871
South Avenue Surface.....	1890	Syracuse and Chenango.....	1873
South Brooklyn.....	1878	Syracuse and Chenango Valley.....	1868
South Brooklyn and Bergen Street.....	1863	Syracuse and East Side.....	1894
South Brooklyn and Flatbush.....	1866	Syracuse, Chenango and New York.....	1877
South Brooklyn Central.....	1877	Syracuse Connecting Railway.....	1866
South Brooklyn Central.....	1887	Syracuse Consolidated Street.....	1890
South Brooklyn Railroad and Terminal.....	1887	Syracuse, Cortland and Binghamton.....	1836
South Brooklyn Street.....	1886	Syracuse, Eastwood Heights and DeWitt.....	1839
South Brooklyn and Park.....	1870	Syracuse Electric.....	1890
South Buffalo.....	1893	Syracuse, Fayetteville and Manlius.....	1867
South Cairo and East Durham.....	1881	Syracuse and Geddes.....	1863
South Ferry.....	1874	Syracuse, Geneva and Corning.....	1875
South Ferry and Prospect Park.....	1874	Syracuse, Geneva and Corning.....	1886
South Ferry Railroad Company.....	1888	Syracuse Junction.....	1873
South Ferry and Sea Side Direct Transit.....	1881	Syracuse Mineral Springs.....	1867
South Park.....	1889	Syracuse Northern.....	1868
South Side Connection.....	1868	Syracuse and Northern.....	1885
South Side of Long Island.....	1861	Syracuse and Northwestern.....	1860
South Vandalla and State Line.....	1897	Syracuse and Northwestern.....	1874
Southern Boulevard.....	1885	Syracuse and Onondaga.....	1836
Southern Central.....	1866	Syracuse and Onondaga.....	1863
Southern Hempstead Branch.....	1875	Syracuse and Ontario.....	1832
Southern Long Island.....	1874	Syracuse, Ontario and New York.....	1833
Southern New York.....	1895	Syracuse and Onelda Lake.....	1891
Southern Westchester.....	1871	Syracuse and Onelda Lake Electric.....	1895
Southfield Beach.....	1899	Syracuse, Phoenix and Ontario.....	1882
Southfield Branch.....	1863	Syracuse, Phoenix and Oswego.....	1872
Speers' Quick Transit.....	1879	Syracuse, Phoenix and Oswego.....	1885
Springville and Sardinia.....	1878	Syracuse, Phoenix and Oswego.....	1886
Spytten Duyvil and Port Morris.....	1867	Syracuse Rapid Transit.....	1896
Squaw Island.....	1884	Syracuse and Rochester Direct.....	1850
State Line and Eastern.....	1879	Syracuse and South Bay.....	1886
State Line and Stony Point.....	1886	Syracuse and Southern.....	1856
Staten Island.....	1836	Syracuse and Southwestern.....	1876
Staten Island.....	1852	Syracuse and Southwestern.....	1877
Staten Island.....	1873	Syracuse and Suburban.....	1895
Staten Island Belt Line.....	1887	Syracuse, Skaneateles and Moravia.....	1898
Staten Island Central.....	1871	Syracuse, Skaneateles and Moravia.....	1899
Staten Island Electric.....	1894	Syracuse Stone.....	1836
Staten Island Horse.....	1866	Syracuse and Utica.....	1836
Staten Island Interior.....	1894	Syracuse, Union Street.....	1888
Staten Island Midland.....	1890	Syracuse Utica Direct.....	1853
Staten Island Northern.....	1886	Tarrytown Electric.....	1896
Staten Island North and South Shore.....	1881	Tarrytown, White Plains and Mamaroneck.....	1898
Staten Island Rapid Transit.....	1880	Tenth Avenue and Grand Street.....	1860
Staten Island Sea Beach.....	1889	Terminal (of Buffalo).....	1895
Staten Island Rapid Transit.....	1899	Terminal Underground.....	1886
Staten Island Shore.....	1864	Terminal Union.....	1839
Staten Island Shore.....	1869	Third Avenue.....	1853
Staten Island Terminal.....	1883	Third Avenue and Fordham.....	1861
Staten Island Terminal Electric.....	1895	Third Street (Newburgh).....	1887
Steinway (Long Island City).....	1897	Third Ward Railway.....	1886
Steinway Avenue and Bowery Bay.....	1883	Thirty-eighth and Thirty-ninth Streets Crosstown.....	1884
Steinway and Hunter's Point.....	1874	Thirty-first Street.....	1885
Steinway and Hunter's Point.....	1883	Thirty-fourth Street.....	1884
Sterling Mountain.....	1864	Thirty-fourth Street Crosstown.....	1896
Stillwater and Mechanicville.....	1882	Thirty-fourth Street Ferry and Eleventh Avenue.....	1885
St. Lawrence.....	1892	Thirty-ninth Street, Brooklyn Ferry and Suburban.....	1893
St. Lawrence and Adirondack.....	1891	Thirty-second Street.....	1880
St. Lawrence and Adirondack.....	1895	Tilly Foster Mine.....	1888
St. Lawrence and Adirondack.....	1896	Ticonderoga.....	1889
St. Lawrence Valley.....	1873	Tioga and Erie.....	1864
St. Nicholas Avenue and Crosstown.....	1885	Tioga and Savonia.....	1875
St. Regis and Salmon River.....	1892	Tivoli Hollow.....	1893
Stony Clove and Catskill Mountain.....	1881	Tonawanda.....	1832
Stony Point Harbor and Terminal.....	1898	Tonawanda, Genesee Valley and Pine Creek.....	1882
Suburban Rapid Transit.....	1875	Tonawanda Electric.....	1890
Suburban Traction.....	1892	Tonawanda Street.....	1890
Suspension Bridge and Erie Junction.....	1868	Tonawanda Valley.....	1887
Susquehanna Valley Electric Traction.....	1893		
Syracuse.....	1887		
Syracuse.....	1893		
Syracuse and Baldwinsville.....	1886		
Syracuse and Baldwinsville Railway.....	1891		
Syracuse and Binghamton.....	1857		

Name of road.	When formed.	Name of road.	When formed.
Tonawanda Valley and Cuba.....	1881	Utica, Clinton and Binghamton.....	1868
Tonawanda Valley and Cuba.....	1881	Utica and Deerfield Street.....	1871
Tonawanda Valley Extension.....	1881	Utica and Fair-ground.....	1876
Tonawanda, Wiscoy and Genesee Val- ley.....	1882	Utica, Georgetown and Elmira.....	1870
Transit.....	1872	Utica and Herkimer Street.....	1885
Trenton and Sacketts Harbor.....	1837	Utica, Horseheads and Elmira.....	1870
Troy and Albion.....	1866	Utica and Ilion Narrow Gauge.....	1877
Troy and Averil Park.....	1886	Utica, Ithaca and Elmira.....	1873
Troy and Bennington.....	1851	Utica, Ithaca and Elmira Railway Company.....	1878
Troy and Boston.....	1849	Utica and Mohawk.....	1874
Troy and Chatham.....	1882	Utica and Mohawk (Street).....	1869
Troy City.....	1867	Utica and Schenectady.....	1833
Troy and Cohoes.....	1891	Utica Suburban.....	1896
Troy and Greenbush.....	1862	Utica and Susquehanna.....	1832
Troy and Lansingburgh.....	1845	Utica and Syracuse Air Line.....	1880
Troy and Lansingburgh.....	1860	Utica and Syracuse Railway.....	1865
Troy and Lansingburgh.....	1880	Utica and Unadilla Valley.....	1838
Troy and New England.....	1839	Utica and Waterville.....	1854
Troy and Rutland.....	1849	Utica and Waterville.....	1867
Troy and Saratoga.....	1871	Valatie and Kinderhook Street.....	1839
Troy, Saratoga and Northern.....	1886	Van Nest, West Farms and West- chester Traction.....	1892
Troy and Stockbridge.....	1836	Valley.....	1869
Troy and Susquehanna.....	1871	Van Brunt Street and Erie Basin.....	1851
Troy Turnpike and Railroad.....	1831	Waddington, Canton and Southern.....	1894
Troy Union.....	1851	Wadsworth and Westchester Traction.....	1892
Troy and Utica.....	1853	Walden and Orange Lake.....	1894
Tunnel Extension.....	1882	Wall and Cortlandt Street Ferries.....	1858
Twenty-eighth and Thirtieth Street.....	1884	Wall Street Ferry.....	1838
Twenty-eighth and Twenty-ninth Streets Cross-town.....	1886	Wallkill Valley.....	1877
Twenty-eighth and Twenty-ninth Streets Cross-town.....	1896	Wallkill Valley Railway.....	1866
Twenty-third Street.....	1869	Warren County.....	1852
Twenty-third Street.....	1872	Warren County.....	1899
Twenty-third Street Ferry and New- town.....	1893	Warren, Sugar Grove and Mayville.....	1856
Twenty-third Street District Rail- way.....	1886	Warsaw and Le Roy.....	1854
Tyrone and Geneva.....	1837	Warwick.....	1857
Ulster County.....	1836	Warwick Valley.....	1860
Ulster County Electric.....	1896	Washington Bridge, Tremont and Westchester.....	1890
Ulster and Delaware.....	1876	Washington County.....	1857
Unadilla and Schoharie.....	1836	Washington County Central.....	1855
Unadilla Valley.....	1890	Washington Street, Asylum and Park.....	1867
Underground (New York).....	1896	Washington Street and State Asylum.....	1872
Union.....	1851	Water and Clinton Street.....	1873
Union (Buffalo).....	1869	Waterford and Cohoes.....	1863
Union (New York city).....	1892	Waterford and Cohoes.....	1883
Union Electric of Saratoga.....	1890	Waterloo, Seneca Falls and Cayuga Lake.....	1894
Union Elevated.....	1886	Waterport, Electric Light and Power and Railroad.....	1896
Union Passenger Railway Transfer Company of New York.....	1886	Watertown and Brownville Street.....	1890
Union Pneumatic Railway.....	1867	Watertown and Brownville Street.....	1894
Union Railroad Company.....	1857	Watertown and Cape Vincent.....	1836
Union Station.....	1899	Watertown and Rome.....	1832
Union Street.....	1890	Watertown Street Railway.....	1887
Union of the City of Brooklyn.....	1884	Watervliet and Schenectady.....	1896
Union (Syracuse).....	1852	Watervliet Turnpike and Railroad.....	1862
Union and Syracuse Straight Line.....	1852	Watkins and Havana Street.....	1872
Union Terminal of the City of Buf- falo.....	1887	Watkins and Havana.....	1896
Union Village and Johnsonville.....	1867	Watkins and Havana.....	1896
Union (of Westchester).....	1859	Waverly and State Line.....	1867
United Railroad Company (Brooklyn).....	1897	Waverly, Sayre and Athens Traction.....	1894
United States and Canada.....	1883	Wellsville, Holtz and Eldred.....	1881
United States and Canada.....	1888	Wellsville, Coudersport and Pine Creek.....	1882
United States Harvey-way Construc- tion Company.....	1882	Wellsville and Fillmore.....	1882
Upper Hudson.....	1872	Wellsville, Honeoye and Ceres.....	1882
Upper Hudson.....	1896	West Brooklyn.....	1837
Uptown Fifth Avenue.....	1885	West Brooklyn Electric.....	1890
Utica, Adirondack and Saratoga.....	1883	West Davenport.....	1891
Utica Belt Line.....	1886	West Oneonta and Laurens.....	1898
Utica and Binghamton.....	1853	Westchester.....	1863
Utica and Black River.....	1861	Westchester County.....	1856
Utica and Black River.....	1883	Westchester County.....	1878
Utica and Black River.....	1886	Westchester County.....	1884
Utica, Chenango and Cortland.....	1870	Westchester County Central Electric.....	1895
Utica, Chenango and Susquehanna Valley.....	1866	Westchester County and New York City.....	1890
Utica City.....	1862	Westchester Electric.....	1891
		Westchester and Putnam.....	1891
		Westchester Railway.....	1881

Name of road.	When formed.	Name of road.	When formed.
Westchester and Long Island Tunnel	1893	Whitehall and Plattsburgh.....	1896
Westchester and Williamsbridge Traction	1895	Whitehall and Rutland.....	1893
West End and Glenwood.....	1876	Whitestone and Westchester.....	1879
West Farms and Westchester Traction	1892	Whitestone and College Point.....	1893
Western New York.....	1895	Williamsbridge, Woodlawn and Westchester	1891
Western New York and Pennsylvania	1837	Williamsbridge and Westchester Traction	1892
Western New York and Pennsylvania	1895	Williamsbridge and Coney Island....	1894
Westfield and Chautauqua.....	1886	Williamsbridge and Elmira.....	1890
Westfield, Mayville and Chautauqua Motor	1897	Williamsbridge and Flatbush.....	1896
Westport and Kingdom.....	1868	Williamsburgh and Newton.....	1896
West Shore.....	1863	Williamsport and Binghamton.....	1887
West Shore.....	1885	Wilson Terminal.....	1899
West Shore Hudson River.....	1868	Williamstown and Redfield.....	1895
West Shore and International Bridge	1883	Williamsville, Marlborough and Buffalo	1898
West Side (Binghamton).....	1887	Windham Traction.....	1897
West Side.....	1854	Windsor Beach and Ontario.....	1897
West Side (Buffalo).....	1887	Woodlawn and Butternut.....	1896
West Side (Elmira).....	1891	Yates Avenue and Flatbush.....	1890
West Side (Elmira).....	1896	Yonkers	1872
West Side Elevated Patent Railway..	1868	Yonkers	1896
West Side (New York).....	1892	Yonkers	1896
West Side of Rochester.....	1887	Yonkers Electric.....	1894
West Side and Yonkers Patent.....	1866	Yonkers, Mt. Vernon, Pelham and New Rochelle.....	1891
West Troy and Green Island.....	1870	Yonkers and New York.....	1894
West Water Street.....	1890	Yonkers Rapid Transit.....	1879
Wharton Valley.....	1888	Yonkers Street.....	1896
Whitehall and Plattsburgh.....	1853	Yonkers and Tarrytown Electric.....	1896
		Youngstown and Buffalo.....	1888

The Following Are the Rules of Procedure Adopted by the Board in Matters Coming Before It.

Complaints.

Complaints to the Board against railroad companies should be made in writing, and the cause of complaint should be stated clearly. Upon receipt of a complaint a copy is sent to the railroad company, which must answer within ten days, unless longer time is allowed by the Board. A copy of the answer is sent to the complainant, and, if not satisfactory, issue is joined, a hearing held and a decision rendered.

Change of Name.

See sections 2411-2417, Code of Civil Procedure.

Increase of Capital Stock.

(Section 46, Stock Corporation Law.)

Application must be made by verified petition. A date for hearing will be fixed. The Board requires:

First. Three certificates of the proceedings of the meeting of the stockholders, two to be indorsed and one to be filed in this office.

Second. A sworn statement of the financial condition of the company as to the amount of the capital stock, outstanding indebtedness and the cost of road and equipment.

Third. A sworn statement in detail of the purposes to which the proposed increase is to be devoted, and, if for further construction or equipment, an estimate in detail of the cost thereof made by a person competent to make the same, verified.

Reduction of Capital Stock.

(Section 46, Stock Corporation Law.)

Application must be made by verified petition. A date for hearing will be fixed. The Board requires:

First. Three certificates of the proceedings of the meeting of the stockholders, two to be indorsed and one to be filed in this office.

Second. A sworn statement from the proper officer of the company that the reduced capital is sufficient for the proper purposes of the corporation and is in excess of its debts and liabilities, the aggregate amount of such debts and liabilities to be stated.

Consent to the Issue of Mortgage.

(Subdivision 10, section 4, Railroad Law, as amended by chapter 583, Laws of 1899.)

Application must be made by verified petition. A date for hearing will be fixed. The Board requires:

First. Proof of consent of the stockholders under the statute.

Second. A sworn statement of the financial condition of the company as to the amount of the capital stock authorized and the amount outstanding, and amount of mortgage bonds and indebtedness authorized and amount outstanding; also a sworn statement of the cost of road and equipment.

Third. A sworn statement in detail of the purposes to which the proceeds of the proposed mortgage are to be devoted, and, if for further construction or equipment, an estimate in detail of the cost thereof, made by a person competent to make the same, verified.

Filing of Maps of Railroads.

(Section 6, Railroad Law.)

Section 6 of the Railroad Law shows in detail what is required.

Discontinuance of Railroad Stations.

(Section 34, Railroad Law.)

Application must be made by verified petition. The Board will in each case prescribe rules for proof in applications under this section.

Accommodation of Connecting Railroads.

(Section 35, Railroad Law.)

Application must be made by verified petition. The Board will in each case prescribe rules for proof in applications under this section.

Railroads Crossing Each Other at Grade.

(Section 36, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. As to the precedence of trains. The Board will in each case prescribe rules for proof in applications under this provision.

Second. In applications for approval of an interlocking switch

and signal apparatus at such crossings, a hearing will be given at which a blue print or sketch of the proposed system must be submitted to the Board, which shall show distant signals at least 1,500 feet from the crossing (except where impracticable), home signals and throw-off switches (except where impracticable), all interlocked and operated from a tower.

Safety Devices.

(Section 50, Railroad Law.)

Application must be made by verified petition. Applications under this section will be considered under rules made for each case.

Cooking Stoves in Cars.

(Section 51, Railroad Law.)

Application must be made by verified petition. In applications under this section for approval of cooking stoves in dining cars, the Board must see the stove proposed to be used, or a blue print or sketch of it.

Cessation of Operation of Railroads During the Winter Months.

(Section 55, Railroad Law. See section 21, Railroad Law.)

Application must be made by verified petition. The Board will require notice of hearing on applications under this section to be advertised. Proof must be furnished that the road comes within the meaning of the section, and that the public interests will not suffer from the cessation of operation. If the application is granted, proof must be subsequently made that the order has been posted as required by section 55.

Fixing Compensation for Transportation of the Mails.

(Section 56, Railroad Law.)

Rules of procedure under this section will be formulated in each case.

Extension of Time in which to File Reports of Railroad Companies.

(Section 57, Railroad Law.)

Application under this section must be accompanied by a statement of the reasons why an extension of time in which to file reports is necessary.

*Certificate that Public Convenience and a Necessity Requires the
Construction of a New Railroad.*

(Section 59, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Proof of the publication of a certified copy of the articles of association of the company, as required by section 59, and proof that the application is made within six months after the completion of such publication.

Second. Public notice of the application and hearing before the Board must be published in such form and in such newspapers as the Board shall direct.

Third. At the hearing, in contested cases, proof must be made by oral evidence that public convenience and a necessity require the construction of the railroad. In uncontested cases, this proof may be made by affidavits.

Fourth. In the case of a steam surface railroad a map and survey of the line as proposed, showing the streets, avenues and highways and other railroads to be crossed. In the case of street surface railroads in cities and villages a map of the proposed route, which shall show the steam surface railroads proposed to be crossed, and outside of cities and villages, a map which shall show the highways and other railroads to be crossed, and where the route is not in a highway a profile of the portion not in the highway.

Fifth. Proof must be made of the *bona fides* of the enterprise, and of the financial ability of the projectors to build the road.

Grade Crossing Law.

(Section 60-69, Railroad Law.)

The procedure is prescribed in the statute.

Consolidation or Lease of Parallel and Competing Steam Railroads.

(Section 80, Railroad Law.)

Application must be made by verified petition. Rules for the consideration of applications under this section will be established by the Board in each case.

As to Liability of Reorganized Railroad Company to Extend Its Road.

(Section 83, Railroad Law.)

Application must be made by verified petition. Rules for the consideration of applications under this section will be established by the Board in each case.

Motive Power of Street Railroads.

(Section 100, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Publication of notice of hearing on the application, in such form and in such newspapers as the Board shall direct.

Second. At the hearing, oral evidence in contested cases, and in uncontested cases, affidavit or affidavits of competent persons showing the total value of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed, and the value of the property the owners of which have consented to the use of the motive power proposed.

Use of Tracks of a Street Railroad.

(Section 102, Railroad Law.)

Rules for procedure under this section will be prescribed in each case.

Abandonment of Part of Route of a Street Surface Railroad.

(Section 103, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Two copies of the declaration of abandonment, adopted as required by the section.

Second. Notice of hearing on the application shall be published in such form and in such newspapers as the Board shall prescribe.

Third. Proof must be made by affidavit in uncontested cases, and by oral evidence in contested cases, that the portion of the route proposed to be abandoned is no longer necessary for "the successful operation of its road and convenience of the public."

●

Change of Gauge of Railroads.

(Chapter 287, Laws 1891.)

Application must be made by verified petition. The Board will require proof that stockholders owning three-fourths in amount of the capital stock of the company have voted at a special meeting called for that purpose in favor of changing the gauge of the railroad. Also such further information as it in each case shall designate.

Relative to Abandonment of Route by Elevated Railroads.

(Chapter 294, Laws 1891.)

Application must be made by verified petition. In applications under this act the Board will make rules in each case.

As to Lighting and Ventilating Tunnels.

(Chapter 360, Laws 1891.)

Rules for procedure under this act will be fixed in each case.

Laying Street Railroad Track across Steam Railroad where there are Three or More Steam Railroad Tracks.

(Section 2, chapter 239, Laws 1893.)

Application must be made by verified petition. At the hearing the company making the application must furnish the Board with a map or sketch, showing the crossing and the locality surrounding it.

Exemptions and Extensions of Time under the Act Compelling Equipment of Freight Cars and Locomotive Engines with Power Brakes.

(Section 6, chapter 543, Laws 1893.)

Application must be made by verified petition. The Board will require to be filed with it the affidavit of the proper officer of the company (general superintendent or general manager), showing the total number of freight cars owned or leased by the company at the date of the application; the number that are equipped with power brakes; the number equipped during the preceding year; and reasons why exemption or extension of time is asked.

*Exemptions and Extensions of Time under the Act Compelling
the Equipment of Freight Cars with Automatic Couplers.*

(Section 6, chapter 544, Laws 1893.)

Application must be made by verified petition. The Board will require to be filed with it the affidavit of the proper officer of the company (general superintendent or general manager), showing the total number of freight cars owned or leased by the company at the date of the application; the number that are equipped with automatic couplers, the number equipped during the preceding year, and reasons why exemption or extension of time is asked.

TRAVELING EXPENSES OF THE BOARD.

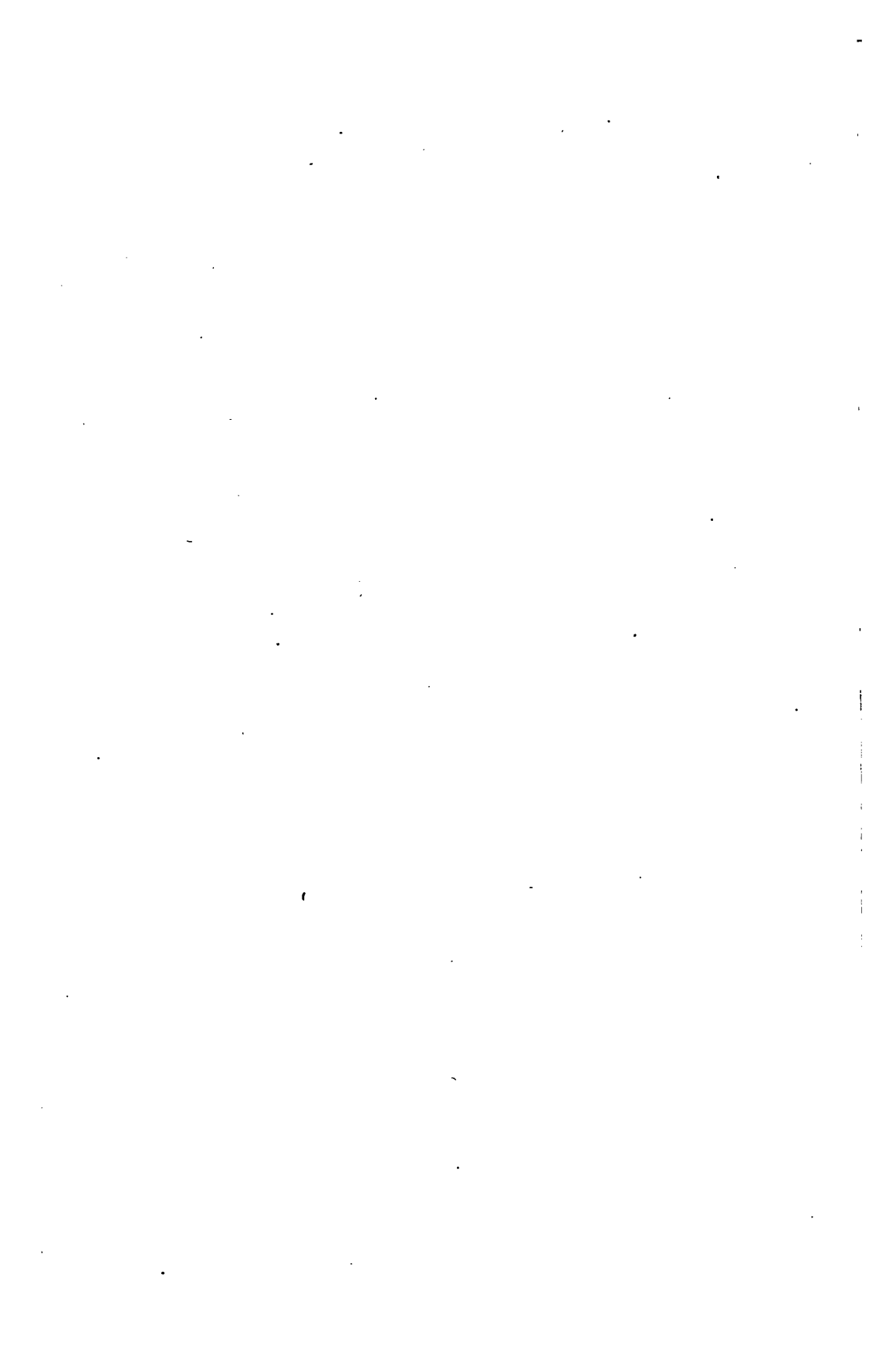
Traveling expenses of the Board of Railroad Commissioners for the year ending September 30, 1899, as filed and audited by items in the office of the Comptroller of the State. (Limited by article VI, Railroad Law, to \$500 a month, in the aggregate, or \$6,000 per annum.)

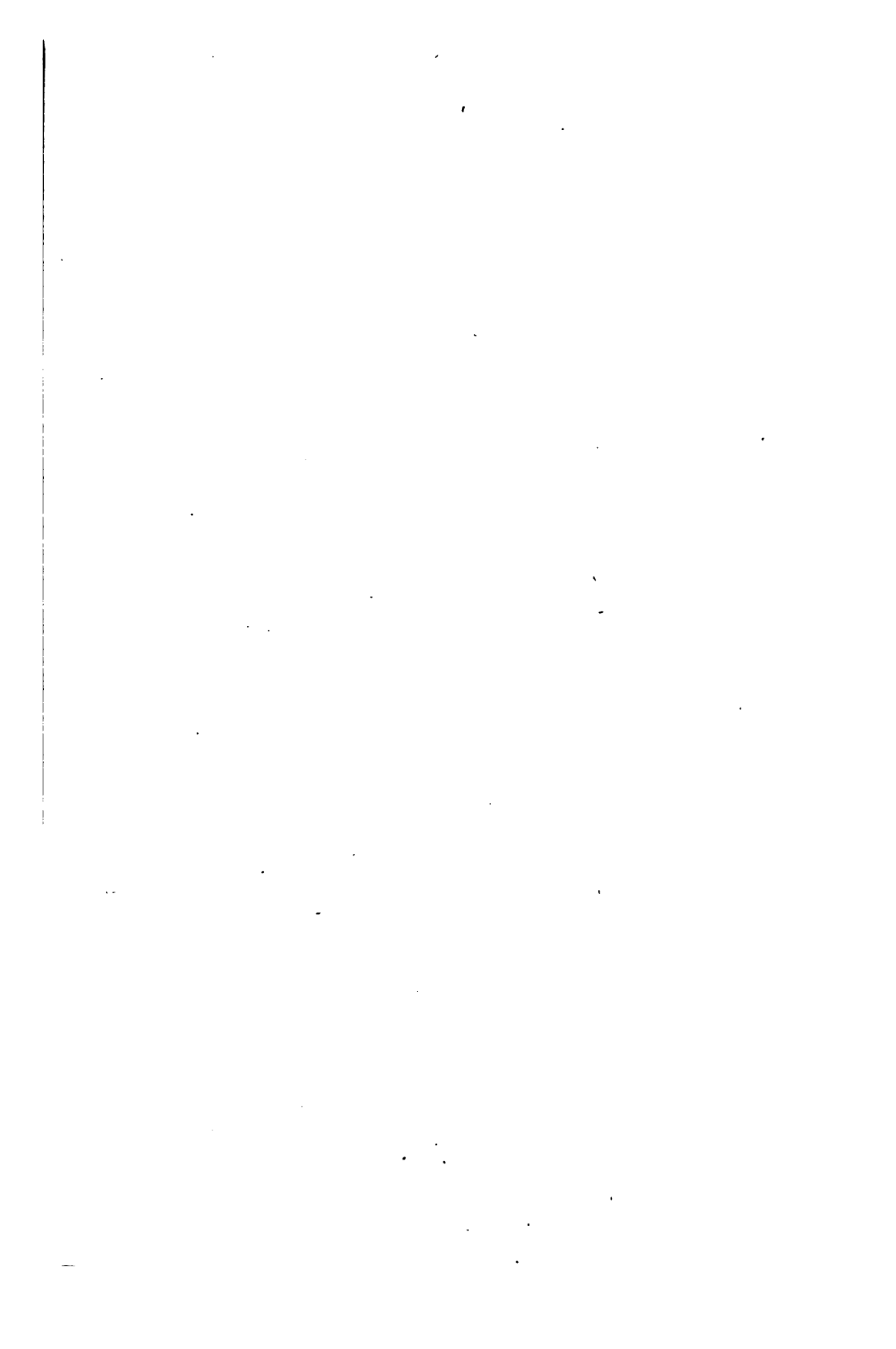
Of the Commissioners and Secretary.....	\$444 92
Of the Assistant Secretary.....	94 25
Of the Inspector, Accountant and Clerks.....	848 21
Of the Electrical Expert.....	602 84
Total	<u>\$1,989 72</u>

FROM SPECIAL APPROPRIATIONS.

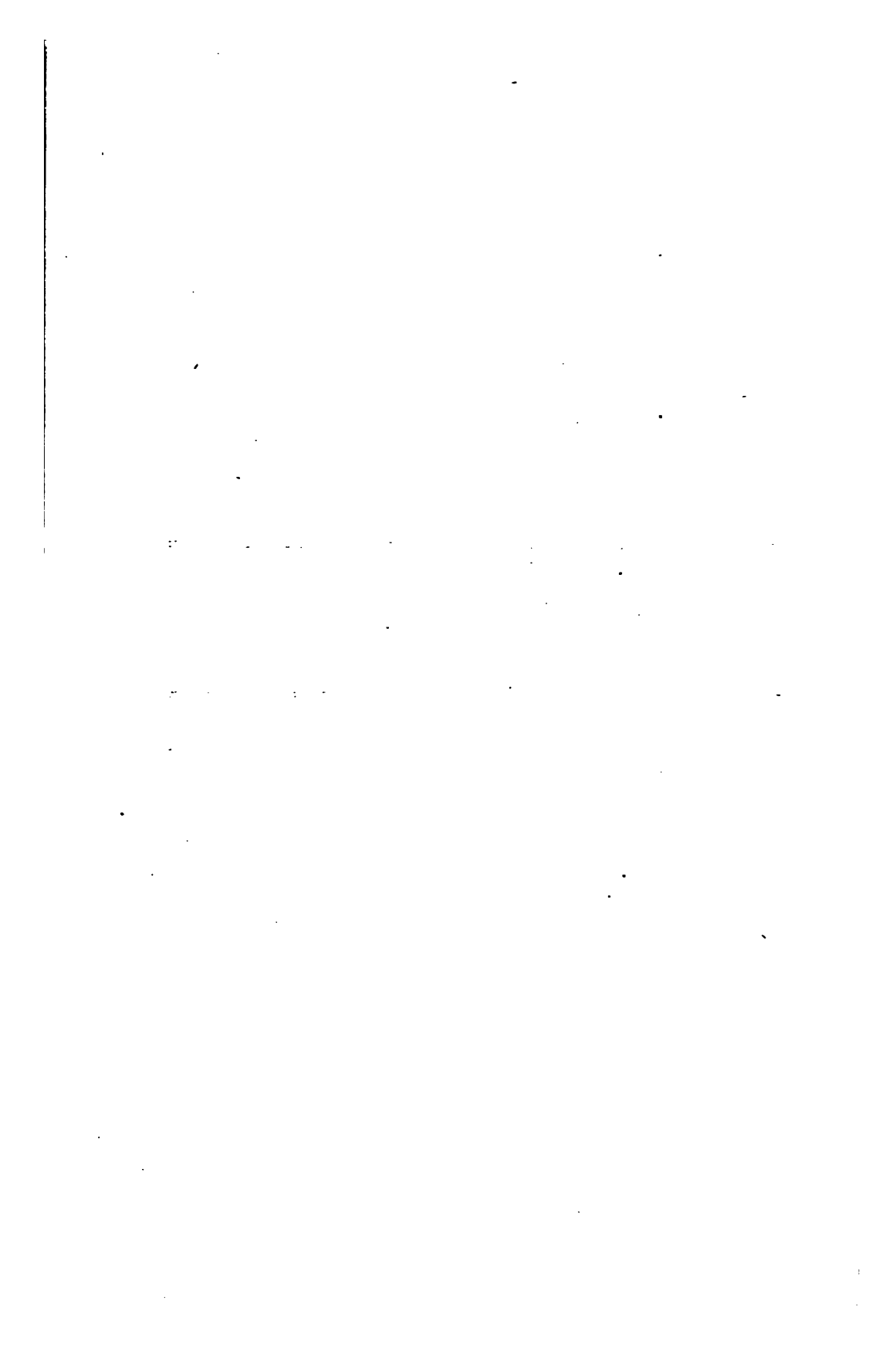
Of the Electrical Expert.....	\$520 72
Of the Grade Crossing Superintendent and assistants	946 57
Of the Commissioners and Secretary on account of grade crossings.....	458 43
Of the Assistant Secretary on account of grade crossings	100 00
Total	<u>\$2,025 72</u>
Grand Total, all traveling expenses.....	<u>\$4,015 44</u>







APPENDIX.



LAWS APPLICABLE TO RAILROAD COMPANIES.

[Compiled by the Board of Railroad Commissioners.]

FIRST — CHAPTER 95, LAWS OF 1890, KNOWN AS THE "CONDEMNATION LAW," AND "PROCEEDINGS TO CHANGE THE NAME OF A CORPORATION."

SECOND — CHAPTER 563, LAWS OF 1890, KNOWN AS THE "GENERAL CORPORATION LAW."

THIRD — CHAPTER 564, LAWS OF 1890, KNOWN AS THE "STOCK CORPORATION LAW."

FOURTH — CHAPTER 565, LAWS OF 1890, KNOWN AS THE "RAILROAD LAW."

INCLUDING ALL AMENDMENTS TO SAID LAWS MADE BY THE LEGISLATURES OF 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898 AND 1899. ALSO, OTHER GENERAL LAWS RELATING TO RAILROADS. ALSO, SECTIONS OF THE CRIMINAL AND PENAL CODES RELATING DIRECTLY TO RAILROADS. ALSO, THE RAPID TRANSIT ACT, ALL AS AMENDED TO AND INCLUDING AMENDMENTS MADE BY THE LEGISLATURE OF 1899. ALSO, THE INTERSTATE COMMERCE ACT, WITH KINDRED ACTS, AS AMENDED TO SEPTEMBER 30, 1899.

THE CONDEMNATION LAW.

(Being chapter 95 of the Laws of 1890, as amended to and including the session of the Legislature of the year 1899.)

AN ACT to amend the Code of Civil Procedure.

CHAPTER XXIII OF THE CODE OF CIVIL PROCEDURE.

SUPPLEMENTAL PROVISIONS.

TITLE I.

PROCEEDINGS FOR THE CONDEMNATION OF REAL PROPERTY.

CONDEMNATION LAW.

SECTION 3357. This title shall be known as the condemnation law.

TERMS USED DEFINED.

§ 3358. The term "person," when used herein, includes a natural person and also a corporation, joint stock association, the state and a political division thereof, and any commission, board, board of managers or trustees in charge or having control of any of the charitable or other institutions of the state; the term "real property," any right, interest or easement therein or appurtenances thereto; and the term "owner," all persons having any estate, interest, or easement in the property to be taken, or any lien, charge, or incumbrance thereon. The person instituting the proceedings shall be termed the plaintiff; and the person against whom the proceeding is brought, the defendant. (*Thus amended by chap. 589, Laws of 1896.*)

TITLE TO REAL ESTATE, HOW ACQUIRED.

§ 3359. Whenever any person is authorized to acquire title to real property, for a public use by condemnation the proceeding for that purpose shall be taken in the manner prescribed in this title.

PETITION TO SUPREME COURT, SECTION 3360; THE PROCEEDING SHALL BE INSTITUTED BY THE PRESENTATION OF A PETITION BY THE PLAINTIFF TO THE SUPREME COURT SETTING FORTH THE FOLLOWING FACTS:

1. His name, place of residence, and the business in which engaged; if a corporation or joint-stock association, whether foreign or domestic, its principal place of business within the state, the names and places of residence of its principal officers, and of its directors, trustees or board of managers, as the case may be, and the object or purpose of its incorpo-

ration or association; if a political division of the state, the names and places of residence of its principal officers; and if the state or any commission or board of managers or trustees in charge or having control of any of the charitable or other institutions of the state, the name, place of residence of the officer acting in its or their behalf in the proceedings. (*Thus amended by chap. 589, Laws of 1896.*)

2. A specific description of the property to be condemned and its location, by metes and bounds, with reasonable certainty.

3. The public use for which the property is required and a concise statement of the facts showing the necessity of its acquisition for such use.

4. The names and places of residence of the owners of the property; if an infant, the name and place of residence of his general guardian, if he has one, if not, the name and place of residence of the person with whom he resides; if a lunatic, idiot, or habitual drunkard, the name and place of residence of his committee or trustee, if he has one, if not, the name and place of residence of the person with whom he resides. If a non-resident, having an agent or attorney residing in the state authorized to contract for the sale of the property, the name and place of residence of such agent or attorney; if the name or place of residence of any owner cannot, after diligent inquiry, be ascertained, it may be so stated with a specific statement of the extent of the inquiry which has been made.

5. That the plaintiff has been unable to agree with the owner of the property for its purchase and the reason of such inability.

6. The value of the property to be condemned.

7. A statement that it is the intention of the plaintiff, in good faith, to complete the work or improvement, for which the property is to be condemned; and that all the preliminary steps required by law have been taken to entitle him to institute the proceeding.

8. A demand for relief, that it may be adjudged that the public use requires the condemnation of the real property described, and that the plaintiff is entitled to take and hold such property for the public use specified, upon making compensation therefor, and that commissioners of appraisal be appointed to ascertain the compensation to be made to the owners for the property so taken.

NOTICE OF PRESENTATION OF PETITION; SERVICE OF PETITION AND NOTICE

§ 3361. There must be annexed to the petition a notice of the time and place at which it will be presented to a special term of the

supreme court, held in the judicial district where the property or some portion of it is situated, and a copy of the petition and notice must be served upon all the owners of the property at least eight days prior to its presentation.

SERVICE, HOW MADE.

§ 3362. Service of the petition and notice must be made in the same manner as the service of a summons in an action in the supreme court is required to be made, and all the provisions of articles one and two of title one of chapter five of this act, which relate to the service of a summons, either personally or in any other way, and the mode of proving service, shall apply to the service of the petition and notice. If the defendant has an agent or attorney residing in this state, authorized to contract for the sale of the real property described in the petition, service upon such agent or attorney will be sufficient service upon such defendant. In case the defendant is an infant of the age of fourteen years or upwards, a copy of the petition and notice shall also be served upon his general guardian, if he has one, if not, upon the person with whom he resides.

**DUTY OF GENERAL GUARDIAN, COMMITTEE OR TRUSTEE;
COURT WHEN TO APPOINT GUARDIAN AD LITEM; WHEN
ATTORNEY FOR DEFENDANT.**

§ 3363. If a defendant is an infant, idiot, lunatic or habitual drunkard, it shall be the duty of his general guardian, committee or trustee, if he has one, to appear for him upon the presentation of the petition and attend to his interests, and in case he has none, or in case his general guardian, committee or trustee fails to appear for him, the court shall, upon the presentation of the petition and notice, with proof of service, without further notice, appoint a guardian ad litem for such defendant, whose duty it shall be to appear for him and attend to his interests in the proceeding, and, if deemed necessary to protect his rights, the court may require a general guardian, committee or trustee, or a guardian ad litem to give security in such sum and with such sureties as the court may approve. If a service other than personal has been made upon any defendant, and he does not appear upon the presentation of the petition, the court shall appoint some competent attorney to appear for him and attend to his interests in the proceeding.

APPEARANCE OF PARTIES; SERVICE OF PAPERS.

§ 3364. The provisions of law and of the rules and practice of the court relating to the appearance of parties in person or by

attorney in actions in the supreme court, shall apply to the proceeding from and after the service of the petition, and all subsequent orders, notices and papers may be served upon the attorney appearing and upon a guardian ad litem in the same manner and with the same effect as the service of papers in an action in the supreme court may be made.

ANSWER TO PETITION.

§ 3365. Upon the presentation of the petition and notice with proof of service thereof, an owner of the property may appear and interpose an answer, which must contain a general or specific denial of each material allegation of the petition controverted by him, or of any knowledge or information thereof sufficient to form a belief, or a statement of new matter constituting a defense to the proceeding.

VERIFICATION OF PETITION AND ANSWER.

§ 3366. A petition or answer must be verified, and the provisions of this act relating to the form and contents of the verification of pleadings in courts of record, and the persons by whom it may be made, shall apply to the verification.

TRIAL OF ISSUE AND DECISION THEREON.

§ 3367. The courts shall try any issue raised by the petition and answer at such time and place as it may direct, or it may order the same to be referred to a referee to hear and determine, and upon such trial the court or referee shall file a decision in writing, or deliver the same to the attorney for the prevailing party, within twenty days after the final submission of the proofs and allegations of the parties, and the provisions of this act relating to the form and contents of decisions upon the trial of issues of fact by the court or a referee, and to making and filing exceptions thereto, and the making and settlement of a case for the review thereof upon appeal, and to the proceedings which may be had, in case such decision is not filed or delivered within the time herein required, and to the powers of the court and referee upon such trial, shall be applicable to a trial and decision under this title.

PROVISIONS APPLICABLE

§ 3368. The provisions of title one of chapter eight of this act shall also apply to proceedings had under this title.

JUDGMENT, ENTRY OF ; ETC.

§ 3369. Judgment shall be entered pursuant to the direction of the court or referee in the decision filed. If in favor of the defendant

the petition shall be dismissed, with costs to be taxed by the clerk at the same rates as are allowed, of course, to a defendant prevailing in an action in the supreme court, including the allowances for proceedings before and after notice of trial. If the decision is in favor of the plaintiff, or if no answer has been interposed and it appears from the petition that he is entitled to the relief demanded, judgment shall be entered, adjudging that the condemnation of the real property described is necessary for the public use, and that the plaintiff is entitled to take and hold the property for the public use specified, upon making compensation therefor, and the court shall thereupon appoint three disinterested and competent freeholders, residents of the judicial district embracing the county where the real property, or some part of it, is situated, or of some county adjoining such judicial district, commissioners to ascertain the compensation to be made to the owners for the property to be taken for the public use specified, and fix the time and place for the first meeting of the commissioners. Provided, however, that in any such proceeding instituted within the first or second judicial district, such commissioners shall be residents of the county where the real property, or some part of it, is situated, or of some adjoining county. If a trial has been had, at least eight days' notice of such appointment must be given to all the defendants who have appeared. The parties may waive, in writing, the provisions of this section as to the residence of the commissioners, and in that case they may be residents of any county in the state. Where owners of separate properties are joined in the same proceeding, or separate properties of the same owner are to be condemned, more than one set of commissioners may be appointed. (*Thus amended by chap. 530, Laws of 1895.*)

DUTY OF COMMISSIONERS; REPORT; COMPENSATION.

§ 3370. The commissioners shall take and subscribe the constitutional oath of office. Any of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceeding before them, from time to time in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause at least eight days' notice of such meeting to be given to the defendants who have appeared, or their agents or attorneys. They shall view the premises described in the petition, and hear the proof and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they, or a majority of them, all being present, shall, without unnecessary delay ascertain and determine the compensation which ought justly to be made by the plaintiff to the owners of the property appraised by them; and, in fixing the

amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owners may derive from the public use for which the property is to be taken, or the construction of any proposed improvement connected with such public use. But in case the plaintiff is a railroad corporation and such real property shall belong to any other railroad corporation, the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They shall make a report of their proceedings to the supreme court with the minutes of the testimony taken by them, if any; and they shall each be entitled to six dollars for services for every day they are actually engaged in the performance of their duties, and their necessary expenses, to be paid by the plaintiff; provided, that in proceedings within the counties of New York and Kings such commissioners shall be entitled to such additional compensation not exceeding twenty-five dollars for every such day, as may be awarded by the court. (*Thus amended by chap. 384, Laws of 1898, taking effect September 1st, 1898.*)

As to condemning railroad property see section 7, Railroad Law, *post*.

CONFIRMATION OF REPORT; REHEARING BEFORE COMMISSIONERS FINAL ORDER; DEPOSIT OF MONEY DEEMED PAYMENT.

§ 3371. Upon filing the report of the commissioners, any party may move for its confirmation at a special term, held in the district where the property or some part of it is situated, upon notice to the other parties who have appeared, and upon such motion, the court may confirm the report, or may set it aside for irregularity, or for error of law in the proceedings before the commissioners, or upon the ground that the award is excessive or insufficient. If the report is set aside, the court may direct a rehearing before the same commissioners, or may appoint new commissioners for that purpose, and the proceedings upon such rehearing shall be conducted in the manner prescribed for the original hearing, and the same proceedings shall be had for the confirmation of the second report, as are herein prescribed for the confirmation of the first report. If the report is confirmed, the court shall enter a final order in the proceeding, directing that compensation shall be made to the owners of the property, pursuant to the determination of the commissioners, and that upon payment of such compensation, the plaintiff shall be entitled to enter into the possession of the property condemned, and take and hold it for the public use specified in the judgment. Deposit of the money to the credit of, or payable to the order of the owner, pursuant to the direction of the court, shall be deemed a payment within the provisions of this title.

OFFER TO PURCHASE BY PLAINTIFF; NOTICE OF ACCEPTANCE OF OFFER; COST AND ALLOWANCES.

§ 3372. In all cases where the owner is a resident and not under legal disability to convey title to real property the plaintiff, before service of his petition and notice, may make a written offer to purchase the property at a specified price, which must within ten days thereafter be filed in the office of the clerk of the county where the property is situated, and which can not be given in evidence before the commissioners; or considered by them. The owner may at the time of the presentation of the petition, or at any time previously, serve notice in writing of the acceptance of plaintiff's order, and thereupon the plaintiff may, upon filing the petition, with proof of the making of the offer and its acceptance, enter an order that upon payment of the compensation agreed upon, he may enter into possession of the real property described in the petition, and take and hold it for the public use therein specified. If the offer is not accepted, and the compensation awarded by the commissioners does not exceed the amount of the offer with interest from the time it was made, no costs shall be allowed to either party. If the compensation awarded shall exceed the amount of the offer with interest from the time it was made, or if no offer was made, the court shall, in the final order, direct that the defendant recover of the plaintiff the costs of the proceeding, to be taxed by the clerk at the same rate as is allowed, of course, to the defendant, when he is the prevailing party in an action in the supreme court, including the allowances for proceedings before and after notice of trial and the court may also grant an additional allowance of costs, not exceeding five per centum upon the amount awarded. The court shall also direct in the final order what sum shall be paid to the general or special guardian, or committee or trustee of an infant, idiot, lunatic or habitual drunkard, or to an attorney appointed by the court to attend to the interests of any defendant upon whom other than personal service of the petition and notice may have been made, and who has not appeared, for costs, expenses and counsel fees, and by whom or out of what fund the same shall be paid. If a trial has been had, and all the issues determined in favor of the plaintiff, costs of the trial shall not be allowed to the defendant, but the plaintiff shall recover of any defendant answering the costs of such trial caused by the interposition of the unsuccessful defense, to be taxed by the clerk at the same rate as is allowed to the prevailing party for the trial of an action in the supreme court.

COMPENSATION AWARDED, ETC., TO BE DOCKETED AS A JUDGMENT; DELIVERY OF POSSESSION; ISSUE OF WRIT OF ASSISTANCE

§ 3373. Upon the entry of the final order, the same shall be attached to the judgment roll in the proceeding, and the amount directed to be paid, either as compensation to the owners, or for the costs or expenses of the proceeding, shall be docketed as a judgment against the person who is directed to pay the same, and it shall have all the force and effect of a money judgment in an action in the supreme court, and collection thereof may be enforced by execution and by the same proceedings as judgments for the recovery of money in the supreme court may be enforced under the provisions of this act. When payment of the compensation awarded, and costs of the proceeding, if any, has been made, as directed in the final order, and a certified copy of such order has been served upon the owner, he shall upon demand of the plaintiff, deliver possession thereof to him, and in case possession is not delivered when demanded, the plaintiff may apply to the court without notice, unless the court shall require notice to be given, upon proof of such payment and of service of the copy order, and of the demand and non-compliance therewith, for a writ of assistance, and the court shall thereupon cause such writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

ABANDONMENT AND DISCONTINUANCE OF PROCEEDING.

§ 3374. Upon the application of the plaintiff to be made at any time after the presentation of the petition and before the expiration of thirty days after the entry of the final order, upon eight days' notice of motion to all other parties to the proceeding who have appeared therein or upon an order to show cause, the court may, in its discretion, and for good cause shown, authorize and direct the abandonment and discontinuance of the proceeding, upon payment of the fees and expenses, if any, of the commissioners, and the costs and expenses directed to be paid in such final order, if such final order shall have been entered, and upon such other terms and conditions as the court may prescribe; and upon the entry of the order granting such application and upon compliance with the terms and conditions therein prescribed, payment of the amount awarded for compensation, if such compensation shall have been theretofore awarded, shall not be enforced, but in such case, if such abandonment and discontinuance of the proceeding be directed upon the application of the plaintiff, the

order granting such application, if permitting a renewal of such proceedings, shall provide that proceedings to acquire title to such lands or any part thereof shall not be renewed by the plaintiff without a tender or deposit in court of the amount of the award and interest thereon. (*Thus amended by chap. 475, Laws 1894.*)

APPEAL FROM FINAL ORDER; STAY OF PROCEEDINGS.

§ 3375. Appeal may be taken to the general term of the supreme court from the final order, within the time provided for appeals from orders by title four of chapter twelve of this act; and all the provisions of such chapter relating to appeals to the general term from orders of the special term shall apply to such appeals. Such appeal will bring up for review all the proceedings subsequent to the judgment, but the judgment and proceedings antecedent thereto may be reviewed on such appeal, if the appellant states in his notice that the same will be brought up for review, and exceptions shall have been filed to the decision of the court or the referee, and a case or a case and exceptions shall have been made, settled and allowed, as required by the provisions of this act, for the review of the trial of actions in the supreme court without a jury. The proceedings of the plaintiff shall not be stayed upon such an appeal, except by order of the court, upon notice to him, and the appeal shall not affect his possession of the property taken, and the appeal of a defendant shall not be heard except on his stipulation not to disturb such possession.

APPEAL FROM JUDGMENT IN FAVOR OF DEFENDANT.

§ 3376. If a trial has been had and judgment entered in favor of the defendant, the plaintiff may appeal therefrom to the general term within the time provided for appeals from judgments by title four of chapter twelve of this act, and all the provisions of such chapter relating to appeals from judgments shall apply to such appeals; and on the hearing of the appeal the general term may affirm, reverse or modify the judgment, and in case of reversal may grant a new trial, or direct that judgment be entered in favor of the plaintiff. If the judgment is affirmed, costs shall be allowed to the respondent, but if reversed or modified, no costs of the appeal shall be allowed to either party.

NEW APPRAISAL.

§ 3377. On the hearing of the appeal from the final order the court may direct a new appraisal before the same or new commis-

sloners in its discretion, and the report of such commissioners shall be final and conclusive upon all parties interested. If the amount of the compensation to be paid is increased by the last report, the difference shall be a lien upon the land appraised, and shall be paid to the parties entitled to the same, or shall be deposited as the court shall direct; and if the amount is diminished, the difference shall be refunded to the plaintiff by the party to whom the same may have been paid, and judgment therefor may be rendered by the court, on the filing of the last report, against the parties liable to pay the same.

ADVERSE AND CONFLICTING CLAIMANTS TO MONEY.

§ 3378. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the property taken, the court may direct the money to be paid into the court by the plaintiff, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts on which such determination and direction are to be made.

POWER OF COURT TO PREVENT DISTURBANCE OF POSSESSION.

§ 3379. At any stage of the proceeding the court may authorize the plaintiff, if in possession of the property sought to be condemned, to continue in possession, and may stay all actions or proceedings against him on account thereof, upon giving security, or depositing such sum of money as the court may direct to be held as security for the payment of the compensation which may be finally awarded to the owner therefor and the costs of the proceeding, and in every such case the owner may conduct the proceeding to a conclusion, if the plaintiff delays or neglects to prosecute the same.

ENTRY UPON AND USE OF PROPERTY AFTER ANSWER HAS BEEN INTERPOSED.

§ 3380. When an answer to the petition has been interposed, and it appears to the satisfaction of the court that the public interests will be prejudiced by delay, it may direct that the plaintiff be permitted to enter immediately upon the real property to be taken, and devote it temporarily to the public use specified in the petition, upon depositing with the court the sum stated in the answer as the value of the property, and which sum shall be applied, so far as it may be necessary for that purpose, to the payment of the award that may be made, and the costs and expenses of the proceeding, and the resi-

due, if any, returned to the plaintiff, and in case the petition should be dismissed, or no award should be made, or the proceedings should be abandoned by the plaintiff, the court shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages which the defendant may have sustained by such entry upon and use of his property, and his costs and expenses of the proceeding, such damages to be ascertained by the court, or a referee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages, and all costs and expenses awarded to the defendant, judgment shall be entered against the plaintiff for the deficiency, to be enforced and collected in the same manner as a judgment in the supreme court; and the possession of the property shall be restored to the defendant.

**NOTICE OF PENDENCY OF PROCEEDINGS ; EFFECT THEREOF ;
DUTY OF COUNTY CLERK.**

§ 3381. Upon service of the petition, or at any time afterwards before the entry of the final order, the plaintiff may file in the clerk's office of each county where any part of the property is situated, a notice of the pendency of the proceeding, stating the name of the parties, and the object of the proceeding, and containing a brief description of the property affected thereby, and from the time of filing such notice shall be constructive notice to a purchaser, or incumbrancer of the property affected thereby, from or against a defendant with respect to whom the notice is directed to be indexed as herein prescribed, and a person whose conveyance or incumbrance is subsequently executed or subsequently recorded is bound by all proceedings taken in the proceeding after the filing of the notice to the same extent as if he was a party thereto. The county clerk must immediately record such notice when filed in the book in his office kept for the purpose of recording notices of pendency of actions, and index it to the name of each defendant specified in the direction appended at the foot of the notice, and subscribed by the plaintiff or his attorney.

POWER OF COURT TO MAKE ALL NECESSARY ORDERS, ETC.

§ 3382. In all proceedings under this title, where the mode or manner of conducting all or any of the proceedings therein is not expressly provided for by law, the court before whom such proceedings may be pending, shall have the power to make all necessary orders and give necessary directions to carry into effect the object and intent of this title, and of the several acts conferring authority to

condemn lands for public use, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

REPEAL.

§ 3383. So much of all acts and parts of acts as prescribe a method of procedure in proceedings for the condemnation of real property for a public use is repealed, except such acts and parts of acts as prescribe a method of procedure for the condemnation of real property for public use as a highway, or as a street, avenue, or public place in an incorporated city or village, or as may prescribe methods of procedure for such condemnation for any public use for, by, on behalf, on the part, or in the name of the corporation of the city of New York, known as the mayor, aldermen, and commonalty of the city of New York, or by whatever name known, or by or on the application of any board, department, commissioners or other officers acting for or on behalf or in the name of such corporation or city, or where the title to the real property so to be acquired vests in such corporation or in such city; and all proceedings for the condemnation of real property embraced within the exceptions enumerated in this section are exempted from the operation of this title. (*Thus amended by chap. 247, Laws of 1890.*)

TITLE, WHEN TO TAKE EFFECT.

§ 3384. This title shall take effect on the first day of May, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

TITLE II.

PROCEEDINGS FOR THE SALE OF CORPORATE REAL PROPERTY.

PROCEEDING ON APPLICATION TO SELL, MORTGAGE, ETC., PROPERTY.

SECTION 3390. Whenever any corporation or joint stock association is required by law to make application to the court for leave to mortgage, lease or sell its real estate, the proceeding therefor shall be had pursuant to the provisions of this title.

PETITION TO COURT; PETITION, WHAT TO CONTAIN; VERIFICATION.

§ 3391. The proceeding shall be instituted by the presentation to the supreme court of the district or the county court of the county where the real property, or some part of it, is situated, by

the corporation or association, applicant, of a petition setting forth the following facts:

1. The name of the corporation or association, and of its directors, trustees or managers, and of its principal officers, and their places of residence.

2. The business of the corporation or association, or the object or purpose of its incorporation or formation, and a reference to the statute under which it was incorporated or formed.

3. A description of the real property to be sold, mortgaged or leased, by metes and bounds, with reasonable certainty.

4. That the interest of the corporation or association will be promoted by the sale, mortgage or lease, of the real property specified, and a concise statement of the reasons therefor.

5. That such sale, mortgage or lease has been authorized, by a vote of at least two-thirds of the directors, trustees or managers of the corporation or association, at a meeting thereof, duly called and held, and a copy of the resolution granting such authority.

6. The market value of the remaining real property of the corporation or association, and the cash value of its personal assets, and the total amount of its debts and liabilities, and how secured, if at all.

7. The application proposed to be made of the moneys realized from such sale, mortgage or lease.

8. Where the consent of the shareholders, stockholders or members of the corporation or association, is required by law to be first obtained, a statement that such consent has been given, and a copy of the consent or a certified transcript of the record of the meeting at which it was given shall be annexed to the petition.

9. A demand for leave to mortgage, lease or sell the real estate described.

The petition shall be verified in the same manner as a verified pleading in an action in a court of record.

HEARING OF APPLICATION.

§ 3392. Upon presentation of the petition, the court may immediately proceed to hear the application, or it may, in its discretion, direct that notice of the application shall be given to any person interested therein, as a member, stockholder, officer or creditor of the corporation or association, or otherwise, in which case the application shall be heard at the time and place specified in such notice, and the court may in any case appoint a referee to take the proofs and report the same to the court, with his opinion thereon.

COURT MAY GRANT APPLICATION ; APPEARANCE ON HEARING.

§ 3393. Upon the hearing of the application, if it shall appear, to the satisfaction of the court, that the interests of the corporation or association will be promoted thereby, an order may be granted authorizing it to sell, mortgage or lease the real property described in the petition, or any part thereof, for such sum, and upon such terms as the court may prescribe, and directing what disposition shall be made of the proceeds of such sale, mortgage or lease.

Any person, whose interests may be affected by the proceeding, may appear upon the hearing and show cause why the application should not be granted.

NOTICE TO CREDITORS ON APPLICATION OF INSOLVENT CORPORATION, ETC.

§ 3394. If the corporation or association is insolvent, or its property and assets are insufficient to fully liquidate its debts and liabilities, the application shall not be granted, unless all the creditors of the corporation have been served with a notice of the time and place at which the application will be heard.

SERVICE OF NOTICES.

§ 3395. Service of notices, provided for in this title, may be made either personally or, in case of absence, by leaving the same at the place of residence of the person to be served, with some person of mature age and discretion, at least eight days before the hearing of the application, or by mailing the same, duly enveloped and addressed and postage paid, at least sixteen days before such hearing.

POWER OF COURT TO MAKE ALL NECESSARY ORDERS.

§ 3396. In all applications made under this title, where the mode or manner of conducting any or all of the proceedings thereon are not expressly provided for, the court before whom such application may be pending, shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this title, or of any act authorizing the sale of corporate real property, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

TITLE, WHEN TO TAKE EFFECT.

§ 3397. This title shall take effect May first, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

Proceedings to Change the Name of a Corporation.

CODE OF CIVIL PROCEDURE.

PETITION BY CORPORATION.

§ 2411. A petition to assume another corporate name may be made by a domestic corporation, whether incorporated by a general or special law, to the supreme court at a special term thereof, held in the judicial district in which its principal business office shall be situated, or, if it be other than a stock corporation, at a special term, held in the judicial district in which its certificate of incorporation is filed or recorded, or in which its principal property is situated, or in which its principal operations are or theretofore have been conducted. If it be a banking, insurance or railroad corporation, the petition must be authorized by a resolution of the directors of the corporation, and approved, if a banking corporation by the superintendent of banks; if an insurance corporation, by the superintendent of insurance, and if a railroad corporation, by the board of railroad commissioners. The petition to change the name of any other corporation must have annexed thereto a certificate of the secretary of state, that the name which such corporation proposes to assume is not the name of any other domestic corporation or a name which he deems so nearly resembling it, as to be calculated to deceive. (*Thus amended by chap. 366, Laws 1893.*)

CONTENTS OF PETITION.

§ 2412. The petition must be in writing, signed by the petitioner and verified in like manner as a pleading in a court of record, and must specify the grounds of the application, the name, age and residence of the individual whose name is proposed to be changed, and the name which he proposes to assume, and if the petitioner be a corporation, its present name, and the name it proposes to assume, which must not be the name of any other corporation, or a name so nearly resembling it as to be calculated to deceive; and if it be a railroad corporation, a corporation having banking powers or the power to make loans upon pledges or deposits, or to make insurances, that the petition has been duly authorized by a resolution of the directors of the corporation and approved by the proper officer. (*Thus amended by chap. 366, Laws 1893.*)

NOTICE OF PRESENTATION OF PETITION.

§ 2413. If the petition be to change the name of an infant, and is made by the infant's next friend, notice of the time and place at which the petition will be presented must be served upon the father, or if he is dead or cannot be found, upon the mother, or if both are dead or cannot be found, upon the general guardian or guardian of the person of the infant, in like manner as a notice of a motion upon an attorney in an action, unless it appears to the satisfaction of the court that the infant has no father or mother, or that both reside without the state or cannot be found, and that he has no guardian residing within this state, in which case the court may dispense with notice or require notice to be given to such persons and in such manner as the court thinks proper. If the petition be made by a corporation located elsewhere than in the city and county of New York, notice of the presentation thereof shall be published once in each week for six successive weeks in the state paper (at Albany in which notices by state officers are authorized by law to be published), and in a newspaper of every county in which such corporation shall have a business office, or if it has no business office, of the county in which its principal corporate property is situated or in which its operations are or theretofore have been principally conducted, which newspaper, if it be a banking corporation, shall be designated by the superintendent of banks, if an insurance corporation, by the superintendent of insurance, or if a railroad corporation, by the railroad commissioners. In the city and county of New York such notice shall be published once in each week for six successive weeks in two daily newspapers published in such county. (*Thus amended by chap. 264, Laws 1894.*)

ORDER.

§ 2414. If the court to which the petition is presented is satisfied thereby, or by the affidavit and certificate presented therewith, that the petition is true, and that there is no reasonable objection to the change of name proposed, and if the petition be to change the name of an infant, that the interests of the infant will be substantially promoted by the change, and, if the petitioner be a corporation, that the petition has been duly authorized and that notice of the presentation of the petition, if required by law, has been made, the court shall make an order authorizing the petitioner to assume the name proposed on a day specified therein, not less than thirty days after the entry of the order. The order shall be directed to be entered and the papers on which it was granted to be filed within ten

20 PROCEEDINGS TO CHANGE THE NAME OF A CORPORATION.

days thereafter in the clerk's office of the county in which the petitioner resides if he be an individual, or in the office of the clerk of the court of common pleas of the city and county of New York if the order be made by that court, or in the office of the clerk of the city court of New York if the order be made by that court, or, if the petitioner be a corporation, in the office of the clerk of the county in which its certificate of incorporation, if any, shall be filed, or if there be none filed, in which its principal office shall be located, or if it has no business office, in the county in which its principal property is situated, or in which its operations are or theretofore have been principally conducted, or in the office of the clerk of the county in which the special term granting the order is held; and if the petitioner be a corporation, that a certified copy of such order shall, within ten days after the entry thereof, be filed in the office of the secretary of state; and also, if it be a banking corporation, in the office of the superintendent of banks, or if it be an insurance corporation, in the office of the superintendent of insurance, or if it be a railroad corporation, in the office of the board of railroad commissioners. Such order shall also direct the publication, within ten days after the entry thereof of a copy thereof in a designated newspaper, in the county in which the order is directed to be entered, at least once if the petitioner be an individual, or if the petitioner be a corporation, once in each week for four successive weeks. The county clerk, in whose office an order changing the name of a corporation is entered, shall record the same at length in the book kept in his office for recording certificates of incorporation. (*Thus amended by chap. 366, Laws 1893.*)

WHEN CHANGE TO TAKE EFFECT.

§ 2415. If the order shall be fully complied with, and within forty days after the making of the order, an affidavit of the publication thereof shall be filed and recorded in the office in which the order is entered, and in each office in which certified copies thereof are required to be filed, if any, the petitioner shall, on and after the day specified for that purpose in the order, be known by the name which is thereby authorized to be assumed, and by no other name. No proceedings heretofore had under sections two thousand four hundred and fourteen and two thousand four hundred and fifteen of the code of civil procedure for the change of the name of a corporation, shall be invalid by reason of the non-filing of an affidavit of the publication of the order changing such name within twenty days from the date thereof. (*Thus amended by chap. 264, Laws 1894.*)

SUBSTITUTION OF NEW NAME IN PENDING ACTION OR PROCEEDING.

§ 2416. An action or special proceeding, civil or criminal, commenced by or against a person whose name is so changed shall not abate, nor shall any relief, recovery or other proceeding therein be prevented, impeded or impaired in consequence of such change of name. The plaintiff in the action or the party instituting the special proceeding, or the people, as the case requires, may, at any time, obtain an order amending any of the papers or proceedings therein, by the substitution of the new name, without costs and without prejudice to the action or proceeding. (*Thus amended by chap. 366, Laws 1893.*)

REPORTS BY CLERKS TO STATE OFFICERS.

§ 2417. The clerk of each county and of each court, shall annually, in the month of December, report to the secretary of state all changes of names of individuals or of corporations, which have been made in pursuance of orders filed in their respective offices during the past year and since the last previous report, and also report in like manner to the superintendent of banks all changes of the names of banking corporations, and to the superintendent of insurance all changes of names of corporations authorized to make insurances. The secretary of state must cause to be published, in the next volume of the session laws, a tabular statement showing the original name of each person and corporation and the name which he or it has been authorized to assume. (*Thus amended by chap. 366, Laws 1893.*)

The General Corporation Law.

CHAP. 563, LAWS OF 1890.

AN ACT in relation to corporations, constituting chapter thirty-five of the general laws.

(As amended to and including the session of the Legislature of 1899.)

THE GENERAL CORPORATION LAW.

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6. Corporations of the same name prohibited.
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- 39. As to acts of directors.
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SHORT TITLE

SECTION 1. This chapter shall be known as the general corporation law.

CLASSIFICATION OF CORPORATIONS

§ 2. A corporation shall be either,

- 1. A municipal corporation,
- 2. A stock corporation,
- 3. A non-stock corporation, or
- 4. A mixed corporation.

A stock corporation shall be either,

- 1. A moneyed corporation,
- 2. A transportation corporation, or
- 3. A business corporation.

A non-stock corporation shall be either,

- 1. A religious corporation, or
- 2. A membership corporation.

A mixed corporation shall be either,

- 1. A cemetery corporation,
- 2. A library corporation,
- 3. A co-operative corporation,
- 4. A board of trade corporation, or
- 5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

- 1. A railroad corporation, or
- 2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

DEFINITIONS.

§ 3. 1. A municipal corporation includes a county, town, school district, village and city, and any other territorial division of the State, established by law with powers of local government.

2. A stock corporation is a corporation having a capital stock divided into shares, and which is authorized by law to distribute to the holders thereof dividends or shares of the surplus profits of the corporation. A corporation is not a stock corporation because of having issued certificates called certificates of stock, but which are in fact merely certificates of membership and which is not authorized by law to distribute to its members any dividends or share of profits arising from the operations of the corporation.

3. The term non-stock corporation includes every corporation other than a stock corporation.

4. A moneyed corporation is a corporation formed under or subject to the banking or the insurance law.

5. A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation which is not a domestic corporation is a foreign corporation, except as provided by the code of civil procedure for the purpose of construing such code.

6. The term directors, when used in relation to corporations, shall include trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

7. The term, certificate of incorporation, shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

8. The term, member of a corporation, shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

9. The term, office of a corporation, means its principal office within the state or principal place of business within the state, if it has no principal office therein.

10. The term, business of a corporation, when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

11. The term, corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of this state relating to corporations included in such revision. (*Thus amended by chap. 672, Laws of 1895.*)

QUALIFICATIONS OF INCORPORATORS.

§ 4. A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and one of them a resident of this State. This section shall not apply to a corporation formed by the reincorporation or consolidation of existing corporations, or to the reorganization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise. (*Thus amended by chap. 672, Laws of 1895.*)

FILING AND RECORDING CERTIFICATES OF INCORPORATION.

§ 5. Every certificate of incorporation and amended or supplemental certificate hereafter executed shall be in the English language, and except of a religious, cemetery, moneyed, municipal or fire department corporation, shall be filed in the office of the secretary of state, and shall be by him duly recorded and indexed in books specially provided therefor; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct. All taxes required by law to be paid before or upon incorporation, and the fees for filing and recording such certificate must be paid before filing. No corporation shall exercise any corporate powers or privileges until such taxes and fees have been paid. (*Thus amended by chap. 672, Laws of 1895.*)

CORPORATE NAMES.

§ 6. No certificate of incorporation of a proposed corporation having the same name as an existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its incorporation. A corporation formed by the reincorporation, reorganization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded. No corporation shall be hereafter organized under the laws of this State with the word bank, in-

surance, indemnity, guarantee or benefit as part of its name, except a corporation formed under the banking law or the insurance law. (*Thus amended by chap. 672, Laws of 1895.*)

AMENDED AND SUPPLEMENTAL CERTIFICATES.

§ 7. If in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the corporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made, and upon notice to the attorney-general, and to such other persons as the court may direct, and upon such terms and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

LOST OR DESTROYED CERTIFICATES.

§ 8. If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

CERTIFICATE AND OTHER PAPERS AS EVIDENCE

§ 9. The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed or recorded relating to the

incorporation of any corporation, or its existence or management, and containing facts required or authorized by law to be stated therein, shall be presumptive evidence of the existence of such facts. (*Thus amended by chap. 672, Laws of 1895.*)

LIMITATION OF POWERS.

§ 10. No corporation shall possess or exercise any corporate powers not given by law, or not necessary to the exercise of the powers so given. The certificate of incorporation of any corporation may contain any provision for the regulation of the business and the conduct of the affairs of the corporation, and any limitation upon its powers, or upon the powers of its directors and stockholders, which does not exempt them from the performance of any obligation or the performance of any duty imposed by law. (*Thus amended by chap. 672, Laws of 1895.*)

GRANT OF GENERAL POWERS.

§ 11. Every corporation as such has power, though not specified in the law under which it is incorporated:

1. To have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulations of its affairs, and the transfer of its stock, if it has any, and the calling of meetings of its members. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of a corporation shall control the action of its directors. No by-law adopted by the board of directors regulating the election of directors or officers shall be valid unless published for at least once a week for two successive weeks in a newspaper in the county where the election is to be held, and at least thirty days before such election. Subdivisions four and five of this section shall not apply to municipal corporations. (*Thus amended by chap. 672, Laws of 1895.*)

ENLARGEMENT OF LIMITATIONS UPON THE AMOUNT OF THE PROPERTY OF NON-STOCK CORPORATIONS.

§ 12. If any general or special law heretofore passed, or any certificate of incorporation, shall limit the amount of property a corporation other than a stock corporation may take or hold, such corporation may take and hold property of the value of three million dollars or less, or the yearly income derived from which shall be five hundred thousand dollars or less, notwithstanding any such limitations. In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account. (*Thus amended by chap. 400, Laws 1894.*)

ACQUISITION OF ADDITIONAL REAL PROPERTY.

§ 13. When any corporation shall have sold or conveyed any part of its real property, the supreme court may, notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

ACQUISITION OF PROPERTY IN OTHER STATES.

§ 14. Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION.

§ 15. No foreign stock corporation other than a moneyed corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such

date. No foreign stock corporation doing business in this state without such certificate shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate.

PROOF TO BE FILED BEFORE GRANTING CERTIFICATE

§ 16. Before granting such certificate the secretary of state shall require every such foreign corporation to file in his office a sworn copy in the English language of its charter or certificate of incorporation and a statement under its corporate seal particularly setting forth the business or objects of the corporation which it is engaged in carrying on or which it proposes to carry on within the state, and a place within the state which is to be its principal place of business, and designating in the manner prescribed in the code of civil procedure a person upon whom process against the corporation may be served within the state. The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state. If the person so designated dies or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation, may, after such death or removal, and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation if its address, or the address of any officer thereof is known to him. (*Thus amended by chap. 672, Laws of 1895.*)

ACQUISITION OF REAL PROPERTY IN THIS STATE BY CERTAIN FOREIGN CORPORATIONS.

§ 17. Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this State, may acquire such real property in this state as

may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

ACQUISITION BY FOREIGN CORPORATIONS OF REAL PROPERTY IN THIS STATE.

§ 18. Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or, upon any judgment or decree for debts due it, or, upon any settlement to secure such debts, any real property within this state covered by or subject to such mortgage, judgment, decree or settlement, and may take by devise any real property situated within this state and hold the same for not exceeding five years from the date of such purchase, or from the time when the right to the possession thereof vests in such devisee, and convey it by deed or otherwise in the same manner as a domestic corporation. (*Thus amended by chap. 136, Laws 1894.*)

PROHIBITION OF BANKING POWERS.

§ 19. No corporation except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidences of debt for circulation as money.

QUALIFICATION OF MEMBERS AS VOTERS.

§ 20. At every election of directors and meeting of the members of any corporation, every member who is not in default in the payment of his subscriptions upon his stock or disqualified by the by-laws, shall be entitled to one vote, if a non-stock corporation, and, if a stock corporation, to one vote for every share of stock held by him for ten days immediately preceding the election or meeting.

Every pledgor of stock standing in his name on the books of the corporation shall be deemed the owner thereof for the purposes of this section.

The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any

two or more of them as he may see fit, which right, when exercised, shall be termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April 30, 1891, were entitled to the exercise of such right, may hereafter exercise such right according to the provisions of this section.

No person shall vote or issue a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bonds which have not been owned by him for at least ten days next preceding such meeting, notwithstanding such stock or bonds may stand in his name on the books of the corporation.

No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or anything of value.

The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at any such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

PROXIES.

§ 21. Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof, may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution, unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revocable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

CHALLENGES.

§ 22. Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly, received any promise or any sum of money or anything of value to influence the giving of my vote or votes at this meeting or as a consideration therefor." If it is a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "That I have not sold or otherwise disposed of my interest in or title to any shares of stock or bonds in respect to which I offer to vote at this election, but that all such shares or bonds are still owned by me," but if such stock or bonds be pledged, the oath may so state. Any person offering to vote as proxy for any other person shall present his proxy, and, if so required, take and subscribe the following oath: "I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or anything of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or anything of value to influence the giving of my vote at this meeting, or as a consideration therefor." If a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "And that the title to the stocks and bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose names they now stand," but if such stocks or bonds be held as security, the oath may so state. The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation. (*Thus amended by chap. 672, Laws of 1895.*)

EFFECT OF FAILURE TO ELECT DIRECTORS.

§ 23. If the directors shall not be elected on the day designated in the by-laws, or by law, the corporation shall not for that reason be dissolved; but every director shall continue to hold his office and discharge his duties until his successor has been elected.

MODE OF CALLING SPECIAL ELECTION OF DIRECTORS.

§ 24. If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting

notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in the failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting, at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

MODE OF CONDUCTING SPECIAL ELECTIONS OF DIRECTORS.

§ 25. Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or cannot be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

QUALIFICATION OF VOTERS AND CANVASS OF VOTES AT SPECIAL ELECTIONS.

§ 26. In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corporation, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office

of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

POWERS OF SUPREME COURT RESPECTING ELECTIONS.

§ 27. The supreme court shall, upon the application of any person or corporation aggrieved by or complaining of any election of any corporation or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

STAY OF PROCEEDINGS IN ACTIONS COLLUSIVELY BROUGHT.

§ 28. If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense, and such action is in the interest or for the benefit of any director, and the corporation has by his connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside and vacate the same, or grant such other relief as may seem proper, and which will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

QUORUM OF DIRECTORS AND POWERS OF MAJORITY.

§ 29. The affairs of every corporation shall be managed by its board of directors at least two of whom shall be residents of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

DIRECTORS AS TRUSTEES IN CASE OF DISSOLUTION.

§ 30. Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

FORFEITURE FOR NON-USER.

§ 31. If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

EXTENSION OF CORPORATE EXISTENCE.

§ 32. Any domestic corporation at any time within three years before the expiration thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed, if at all, and, if not, then in the offices where certificates of incorporation are now required by law to be filed, and the officers with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the original certificate in such book, if any, and thereupon the time of existence of such corporation shall be extended, as designated in such certificate, for a term not exceeding the term of which it was incorporated in the first instance. If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized pur-

suant to any law of this state, and that through mistake it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and recording of a certificate reviving the existence of such corporation, upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was originally incorporated. Upon filing and recording such certificate in the same manner as certificates of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival.

If a corporation formed under or subject to the banking law, such certificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and, if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension.

Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law, notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such laws.

CONFLICTING CORPORATE LAWS.

§ 33. If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it

conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provision in this chapter or in the stock corporation law relating to the same subject matter, and both provisions shall, in such case, be applicable.

LAWS REPEALED.

§ 34. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

SAVING CLAUSE

§ 35. The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

CONSTRUCTION.

§ 36. The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law, or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any

existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

LAW REVIVED.

§ 37. Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Baptist Historical Society of the city of New York," which was inadvertently repealed by the transportation corporations law, is revived and re-enacted, and shall be of the same force and effect as if it had not been repealed.

WHEN NOTICE OR LAPSE OF TIME UNNECESSARY.

§ 38. Whenever, under the provisions of any of the corporate laws a corporation is authorized to take any action after notice to its members or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if such action be authorized or approved, and such requirements be waived in writing by every member of such corporation, or by his attorney thereunto authorized. (*This section added by chap. 672, Laws of 1895.*)

AS TO ACTS OF DIRECTORS.

§ 39. Whenever, under the provisions of any of the corporate laws a corporation is authorized to take any action by the agreement or action of its directors, managers or trustees, such agreement or action may be taken by such directors, regularly convened as a board, and acting by a majority of a quorum, except when otherwise expressly required by law or the by-laws of the corporation and any such agreement shall be executed in behalf of the corporation by such officers as shall be designated by the board of directors, managers or trustees. (*This section added by chap. 672, Laws of 1895.*)

ALTERATION AND REPEAL OF CHARTER.

§ 40. The charter of every corporation shall be subject to alteration, suspension and repeal, in the discretion of the legislature. (*This section added by chap. 672, Laws of 1895.*)

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 18.....All

LAWS OF	Chapter	Section.
1811.....	67.....	All.
1815.....	47.....	All.
1815.....	202.....	All.
1816.....	58.....	All.
1817.....	223.....	All.
1818.....	67.....	All.
1819.....	102.....	All.
1821.....	14.....	All.
1822.....	213.....	All.
1836.....	284.....	All.
1836.....	316.....	All.
1838.....	160.....	All.
1838.....	161.....	All.
1838.....	262.....	All.
1839.....	218.....	All.
1842.....	165.....	All.
1846.....	155.....	All.
1846.....	215.....	17, 18
1847.....	100.....	3, 4.
1847.....	210.....	All.
1847.....	222.....	All.
1847.....	270.....	All.
1847.....	272.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1847.....	404.....	All.
1847.....	405.....	All.
1848.....	37.....	All.
1848.....	40.....	All.
1848.....	45.....	All.
1848.....	259.....	All.
1848.....	265.....	All.
1848.....	360.....	All.
1849.....	250.....	All.
1849.....	362.....	All.
1850.....	71.....	All.
1850.....	140.....	All.
1851.....	14.....	All.
1851.....	19.....	All.
1851.....	98.....	All.
1851.....	107.....	All.
1851.....	437.....	All.
1851.....	497.....	All.
1852.....	228.....	All.
1852.....	372.....	All.
1853.....	53.....	All.
1853.....	117.....	All.

LAWS OF	Chapter	Section.
1853	124	All.
1853	135	All.
1853	245	All.
1853	333	All.
1853	471	1, 2, 4.
1853	481	All.
1853	502	All.
1853	626	All.
1854	3	All.
1854	87	All.
1854	140	All.
1854	201	All.
1854	232	All.
1854	269	All.
1854	282	All.
1854	312	All.
1855	301	All.
1855	302	All.
1855	390	All.
1855	478	All.
1855	485	All.
1855	495	All.
1855	546	All.
1855	559	All.
1856	65	All.
1857	29	All.
1857	83	All.
1857	185	All.
1857	202	All.
1857	262	All.
1857	444	All.
1857	546	All.
1857	558	All.
1857	643	All.
1857	776	All.
1858	10	All.
1858	125	All.
1859	209	All.
1859	311	All.
1859	455	All.
1860	116	All.
1860	269	All.
1860	523	All.
1861	149	All.
1861	170	All.
1861	215	All.
1861	238	All.
1862	205	All.
1862	248	All.
1862	425	All.
1862	438	All.

LAWS OF	Chapter	Section.
1862.....	449.....	All.
1862.....	472.....	All.
1863.....	63.....	All.
1863.....	134.....	All.
1863.....	346.....	All.
1864.....	85.....	All.
1864.....	337.....	All.
1864.....	517.....	All.
1864.....	582.....	All.
1865.....	234.....	All.
1865.....	246.....	All.
1865.....	307.....	All.
1865.....	691.....	All.
1865.....	780.....	All.
1866.....	73.....	All.
1866.....	259.....	All.
1866.....	322.....	All.
1866.....	371.....	All.
1866.....	697.....	All.
1866.....	780.....	All.
1866.....	799.....	All.
1866.....	838.....	All.
1867.....	12.....	All.
1867.....	49.....	All.
1867.....	248.....	All.
1867.....	254.....	All.
1867.....	419.....	All.
1867.....	480.....	All.
1867.....	509.....	All.
1867.....	775.....	All.
1867.....	906.....	All.
1867.....	937.....	All.
1867.....	960.....	All.
1867.....	974.....	All.
1868.....	253.....	All.
1868.....	290.....	All.
1868.....	573.....	All.
1868.....	781.....	All.
1869.....	234.....	All.
1869.....	237.....	All.
1869.....	605.....	All.
1869.....	706.....	All.
1869.....	844.....	All.
1869.....	917.....	All.
1870.....	124.....	All.
1870.....	135.....	All.
1870.....	322.....	All.
1870.....	443.....	All.
1870.....	568.....	All.
1870.....	773.....	All.
1871.....	95.....	All.

LAWS OF	Chapter	Section.
1871.....	481.....	All.
1871.....	535.....	All.
1871.....	560.....	All.
1871.....	657.....	All.
1871.....	669.....	All.
1871.....	697.....	All.
1871.....	883.....	All.
1872.....	81.....	All.
1872.....	128.....	All.
1872.....	146.....	All.
1872.....	248.....	All.
1872.....	283.....	All.
1872.....	350.....	All.
1872.....	374.....	All.
1872.....	426.....	All.
1872.....	609.....	All.
1872.....	611.....	All.
1872.....	779.....	All.
1872.....	780.....	All.
1872.....	820.....	All except 20.
1872.....	829.....	All.
1872.....	843.....	All.
1873.....	151.....	All.
1873.....	352.....	All.
1873.....	432.....	All.
1873.....	440.....	All.
1873.....	469.....	All.
1873.....	616.....	All.
1873.....	710.....	All.
1873.....	737.....	All.
1873.....	814.....	All.
1874.....	76.....	All.
1874.....	143.....	All.
1874.....	149.....	All.
1874.....	240.....	All.
1874.....	288.....	All.
1874.....	430.....	All.
1875.....	4.....	All.
1875.....	58.....	All.
1875.....	88.....	All.
1875.....	108.....	All.
1875.....	113.....	All.
1875.....	119.....	All.
1875.....	120.....	All.
1875.....	159.....	All.
1875.....	193.....	All.
1875.....	256.....	All.
1875.....	319.....	All.
1875.....	365.....	All.
1875.....	445.....	All.
1875.....	510.....	All.

LAWS OF	Chapter	Section.
1875.....	586.....	All.
1875.....	598.....	All.
1875.....	606.....	All.
1875.....	611.....	All.
1876.....	77.....	All.
1876.....	135.....	All.
1876.....	198.....	All.
1876.....	280.....	All.
1876.....	358.....	All.
1876.....	373.....	All.
1876.....	415.....	All.
1876.....	435.....	All.
1876.....	446.....	All.
1877.....	103.....	All.
1877.....	158.....	All.
1877.....	164.....	All.
1877.....	171.....	All.
1877.....	224.....	All.
1877.....	266.....	All.
1877.....	374.....	All.
1878.....	61.....	All.
1878.....	121.....	All.
1878.....	163.....	All.
1878.....	203.....	All.
1878.....	210.....	All.
1878.....	261.....	All.
1878.....	264.....	All.
1878.....	316.....	All.
1878.....	334.....	All.
1878.....	394.....	All.
1879.....	214.....	All.
1879.....	253.....	All.
1879.....	290.....	All.
1879.....	293.....	All.
1879.....	350.....	All.
1879.....	377.....	All.
1879.....	393.....	All.
1879.....	395.....	All.
1879.....	413.....	All.
1879.....	415.....	All.
1879.....	441.....	All.
1879.....	503.....	All.
1879.....	505.....	All.
1879.....	512.....	All.
1879.....	541.....	All.
1880.....	5.....	All.
1880.....	85.....	All.
1880.....	90.....	All.
1880.....	94.....	All.
1880.....	113.....	All.
1880.....	133.....	All.

LAWS OF	Chapter	Section.
1880.....	155.....	All.
1880.....	182.....	All.
1880.....	187.....	All.
1880.....	223.....	All.
1880.....	225.....	All.
1880.....	241.....	All.
1880.....	254.....	All.
1880.....	263.....	All.
1880.....	267.....	All.
1880.....	349.....	All.
1880.....	415.....	All.
1880.....	417.....	All.
1880.....	484.....	All.
1880.....	510.....	All.
1880.....	575.....	All.
1880.....	582.....	All.
1880.....	583.....	All.
1880.....	585.....	All.
1881.....	22.....	All.
1881.....	58.....	All.
1881.....	77.....	All.
1881.....	117.....	All.
1881.....	148.....	All.
1881.....	213.....	All.
1881.....	232.....	All.
1881.....	295.....	All.
1881.....	296.....	All.
1881.....	311.....	All.
1881.....	313.....	All.
1881.....	321.....	All.
1881.....	337.....	All.
1881.....	338.....	All.
1881.....	351.....	All.
1881.....	399.....	All.
1881.....	422.....	All.
1881.....	464.....	All.
1881.....	468.....	All.
1881.....	470.....	All.
1881.....	472.....	All.
1881.....	485.....	All.
1881.....	551.....	All.
1881.....	589.....	All.
1881.....	649.....	All.
1881.....	650.....	All.
1881.....	674.....	All.
1881.....	685.....	All.
1882.....	73.....	All.
1882.....	82.....	All.
1882.....	140.....	All.
1882.....	273.....	All.
1882.....	289.....	All.

LAWS OF	Chapter	Section.
1882.....	290.....	All.
1882.....	306.....	All.
1882.....	309.....	All.
1882.....	349.....	All.
1882.....	353.....	All.
1882.....	393.....	All.
1882.....	405.....	All.
1883.....	46.....	All.
1883.....	71.....	All.
1883.....	102.....	All.
1883.....	216.....	All.
1883.....	232.....	All.
1883.....	237.....	All.
1883.....	238.....	All.
1883.....	240.....	All.
1883.....	287.....	All.
1883.....	323.....	All.
1883.....	361.....	All.
1883.....	381.....	All.
1883.....	382.....	All.
1883.....	384.....	All.
1883.....	386.....	All.
1883.....	387.....	All.
1883.....	388.....	All.
1883.....	409.....	All.
1883.....	482.....	All.
1883.....	483.....	All.
1883.....	497.....	All.
1884.....	140.....	All.
1884.....	193.....	All.
1884.....	208.....	All.
1884.....	223.....	All.
1884.....	252.....	All.
1884.....	267.....	All.
1884.....	367.....	All.
1884.....	386.....	All.
1884.....	397.....	All.
1884.....	421.....	All.
1884.....	422.....	All.
1884.....	439.....	All.
1884.....	441.....	All.
1884.....	444.....	All.
1885.....	84.....	All.
1885.....	127.....	All.
1885.....	141.....	All.
1885.....	153.....	All.
1885.....	171.....	All.
1885.....	305.....	All.
1885.....	369.....	All.
1885.....	422.....	All.
1885.....	423.....	All.

LAWS OF	Chapter	Section.
1885.....	489.....	AIL
1885.....	498.....	AIL
1885.....	535.....	AIL
1885.....	540.....	AIL
1885.....	549.....	AIL
1886.....	65.....	AIL
1886.....	182.....	AIL
1886.....	271.....	AIL
1886.....	321.....	AIL
1886.....	322.....	AIL
1886.....	403.....	AIL
1886.....	415.....	AIL
1886.....	509.....	AIL
1886.....	551.....	AIL
1886.....	579.....	AIL
1886.....	586.....	AIL
1886.....	592.....	AIL
1886.....	601.....	AIL
1886.....	605.....	AIL
1886.....	634.....	AIL
1886.....	642.....	AIL
1887.....	450.....	AIL
1887.....	486.....	AIL
1887.....	536.....	AIL
1887.....	570.....	AIL
1887.....	616.....	AIL
1887.....	622.....	AIL
1887.....	724.....	AIL
1888.....	189.....	AIL
1888.....	306.....	AIL
1888.....	313.....	AIL
1888.....	359.....	AIL
1888.....	394.....	AIL
1888.....	447.....	AIL
1888.....	462.....	AIL
1888.....	513.....	AIL
1888.....	514.....	AIL
1888.....	549.....	AIL
1888.....	560.....	AIL
1889.....	57.....	AIL
1889.....	76.....	AIL
1889.....	78.....	AIL
1889.....	236.....	AIL
1889.....	242.....	AIL
1889.....	281.....	AIL
1889.....	332.....	AIL
1889.....	369.....	AIL
1889.....	426.....	AIL
1889.....	519.....	AIL
1889.....	524.....	AIL
1889.....	531.....	AIL

LAWS OF	Chapter	Section.
1889.....	532.....	All.
1889.....	564.....	All.
1890.....	23.....	All.
1890.....	98.....	All.
1890.....	119.....	All.
1890.....	193.....	All.
1890.....	292.....	All.
1890.....	416.....	All.
1890.....	421.....	All.
1890.....	483.....	All.
1890.....	497.....	All.
1890.....	505.....	All.
1890.....	508.....	All.
1890.....	543.....	All.
1891.....	57.....	All.
1891.....	287.....	All.
1892.....	2.....	All.

The Stock Corporation Law.

CHAP. 564, LAWS OF 1890.

AN ACT in relation to stock corporations, constituting chapter thirty-six of the general laws.

(As amended to and including the session of the Legislature of 1899.)

ARTICLE 1. General powers; reorganization. (§§ 1-7.)

2. Directors and officers; their election, duties and liabilities. (§§ 20-32).
3. Stock; stockholders, their rights and liabilities. (§§ 40-55.)

ARTICLE 1

GENERAL POWERS REORGANIZATION.

SECTION 1. Short title, and application of chapter.

2. Power to borrow money and mortgage property.
3. Reorganization upon sale of corporate property and franchises.
4. Contents of plan or agreement.
5. Sale of property; possession of receiver and suits against him.
6. Assent of stockholders to plan of readjustment.
7. Combinations prohibited.

SHORT TITLE AND APPLICATION OF CHAPTER.

SECTION 1. This chapter shall be known as the stock corporation law, but article one shall not apply to monied corporations.

POWER TO BORROW MONEY AND MORTGAGE PROPERTY.

§ 2. In addition to the powers conferred by the general corporation law, every stock corporation shall have power to borrow money or contract debts, when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation; and may issue and dispose of its obligations for any amount so borrowed, and may mortgage its property and franchises to secure the payment of such obligations or of any debt contracted for the purposes herein specified; and the amount of the obligations issued and outstanding at any one time secured by such mortgages, excepting mortgages given as a consideration for the purchase of real estate, and mortgages authorized by contracts made prior to May first, eighteen hundred and ninety-one, shall not exceed the amount of its paid up capital stock, or an amount equal to two-thirds of the value of its corporate property at

the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid up capital stock. No such mortgages, except purchase-money mortgages, shall be issued without the consent of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, or shall be given by vote at a special meeting of the stockholders called for that purpose; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. When authorized by such consent, the directors, under such regulations as they may adopt, may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation; and if the capital stock shall not be sufficient to meet the conversion when made, the stockholders shall, in the manner herein provided, authorize an increase of capital stock sufficient for that purpose. (*See also chap. 337, Laws 1892, amending this section.*)

Section 2 of the Stock Corporation Law shall not apply to railroad corporations. See subdivision 10, section 4, of the Railroad Law, post.

REORGANIZATION UPON SALE OF CORPORATE PROPERTY AND FRANCHISES.

§ 3. When the property and franchises of any domestic stock corporation shall be sold by virtue of a mortgage or deed of trust, duly executed by it, or pursuant to the judgment or decree of a court of competent jurisdiction, or by virtue of any execution issued thereon, and the purchaser at such sale shall acquire title to the same in the manner prescribed by law, he may associate with him any number of persons, not less than the number required by law for the incorporation of such corporation, a majority of whom shall be citizens and residents of this state, and they may become a corporation, and take and possess the property and franchises thus sold, and which were at the time of sale possessed by the corporation whose property shall have been so sold, upon making, acknowledging and filing in the offices where certificates of incorporation are required by law to be filed, a certificate in which they shall describe by name and reference to the law under which it was organized, the corporation whose property and franchises they have acquired, and the court by whose authority the sale had been made, with the date of the judgment or decree authorizing or directing the same, and a brief description of the property sold, and also the following particulars:

1. The name of the new corporation intended to be formed by the filing of such certificate.

2. The maximum amount of its capital stock and the number of shares into which it is to be divided, specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class.

3. The number of directors, not less nor more than the number required by law for the old corporation, who shall manage the affairs of the new corporation, and the names and post-office address of the directors for the first year.

4. Any plan or agreement which may have been entered into at or previous to the time of sale, in anticipation of the formation of the new corporation, and pursuant to which such purchase was made. Such corporation shall be vested with and be entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to, or were vested in the corporation, last owning the property sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by law on such corporations.

CONTENTS OF PLAN OR AGREEMENT.

§ 4. At or previous to the sale the purchasers thereat, or the persons for whom the purchase is to be made, may enter into a plan or agreement, for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the corporation owning such property and franchises at the time of sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, and may therein regulate voting by the holders of the preferred and common stock at any meeting of the stockholders, and by the holders and owners of any or all of the bonds of the corporation foreclosed, or of the bonds issued or to be issued by the new corporation, and such right of voting by bondholders shall be exercised in such manner, for such period, and upon such conditions, as shall be therein described. Such plan or agreement must contain suitable provision for the bondholders voting by proxy and must not be inconsistent with the laws of the state and shall be binding upon the corporation, until changed as therein provided, or as otherwise provided by law. The new corporation when duly organized, pursuant to such plan or agreement and to the provisions of law, may issue its bonds and stock in conformity with the provisions of such plan or agreement, and may at any time within six months after its

organization, compromise, settle or assume the payment of any debt, claim or liability of the former corporation upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization, and may establish preferences in respect to the payment of dividends in favor of any portion of its capital stock and may divide its stock into classes, but the capital stock of the new corporation shall not exceed in the aggregate the maximum amount of stock mentioned in the certificate of incorporation, nor shall the bonds issued by it exceed in the aggregate the amount which a corporation is authorized by the provisions of this article to issue.

SALE OF PROPERTY ; POSSESSION OF RECEIVER AND SUITS AGAINST HIM.

§ 5. The supreme court may direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any such mortgage or mortgages or deeds of trust. Neither the sale nor the formation of the new corporation shall interfere with the authority or possession of any receiver of such property and franchises, but he shall remain liable to be removed or discharged at such time as the court may deem proper. No suit or proceeding shall be commenced against such receiver unless founded on willful misconduct or fraud in his trust after the expiration of sixty days from the time of his discharge; but after the expiration of sixty days the new corporation shall be liable in any action that may be commenced against it, and founded on any act or omission of such receiver for which he may not be sued, and to the same extent as the receiver, but for this section would be or remain liable, or to the same extent that the new corporation would be had it done or omitted the acts complained of.

STOCKHOLDERS MAY ASSENT TO PLAN OF READJUSTMENT.

§ 6. Every stockholder in any corporation, the franchises and property whereof shall have been thus sold, may assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property shall have been purchased at any time within six months after the organization of the new corporation, and by complying with the terms and conditions of such plan become entitled to his pro rata benefits therein. The commissioners,

corporate authorities, or proper officers of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, may assent to any plan or agreement of re-organization which lawfully provides for the formation of a new corporation, and the issue of stock therein to the proper authorities or officers of such cities, towns or villages in exchange for the stock of the old or former corporation by them respectively held. And such commissioners, corporate authorities or other proper officers may assign, transfer or surrender the stock so held by them in the manner required by such plan, and accept in lieu thereof the stock issued by such new corporation in conformity therewith.

COMBINATIONS ABOLISHED.

§ 7. No domestic stock corporation and no foreign corporation doing business in this state shall combine with any other corporation or person for the creation of a monopoly or the unlawful restraint of trade or for the prevention of competition in any necessary of life. (*Thus amended by chap. 384, Laws 1897.*)

See chap. 383, Laws 1897, *post*.

ARTICLE II.

DIRECTORS AND OFFICERS; THEIR ELECTION, DUTIES AND LIABILITIES.

SECTION 20. Directors.

21. Change of number of directors.
22. When acts of directors void.
23. Liability of directors for making unauthorized dividends.
24. Liability of directors for contracting unauthorized debts and over issue of bonds.
25. Liability of directors for loans to stockholders.
26. Transfers of stock by stockholders indebted to corporation.
27. Officers.
28. Inspectors and their oath.
29. Books to be kept.
30. Annual report.
31. Liability of officers for false certificates, reports or public notices.
32. Alteration or extension of business.
33. Sale of franchise and property.

DIRECTORS.

§ 20. The directors of every stock corporation shall be chosen from the stockholders at the time and place fixed by the by-laws of the corporation by a plurality of the votes of the stockholders voting at such election. Vacancies in the board of directors shall

be filled in the manner prescribed in the by-laws, and if a director shall cease to be a stockholder his office shall become vacant. Notice of the time and place of holding any election of directors shall be given by publication thereof, at least once in each week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held, and in such other manner as may be prescribed in the by-laws. Policyholders of an insurance corporation shall be eligible to election as directors. At least one-fourth in number of the directors of every stock corporation shall be elected annually.

CHANGE OF NUMBER OF DIRECTORS.

§ 21. The number of directors of any stock corporation may be increased or reduced, but not above the maximum nor below the minimum number prescribed by law, when the stockholders owning a majority of the stock of the corporation shall so determine, at a meeting to be held at the usual place of meeting of the directors, on two weeks' notice in writing to each stockholder of record. Such notice shall be served personally or by mail, directed to each stockholder at his last known post-office address. Proof of the service of such notice shall be filed in the office of the corporation at or before the time of such meeting. The proceedings of such meeting shall be entered in the minutes of the corporation, and a transcript thereof, verified by the president and secretary of the meeting, shall be filed in the offices where the original certificates of incorporation were filed. If a corporation formed under or subject to the banking law, the consent of the superintendent of banks, and if an insurance corporation, the consent of the superintendent of insurance, shall be first obtained to such increase or reduction of the number of directors.

WHEN ACTS OF DIRECTORS VOID.

§ 22. When the directors of any corporation for the first year of its corporate existence shall hold over and continue to be directors after the first year, because of their neglect or refusal to adopt the by-laws required to enable the stockholders to hold the annual election for directors, all their acts and proceedings while so holding over, done for and in the name of the corporation, designed to charge upon it any liability or obligation for the services of any such director, or any officer, or attorney or counsel appointed by them, and every such liability or obligation shall be held to be fraudulent and void.

LIABILITY OF DIRECTORS FOR MAKING UNAUTHORIZED DIVIDENDS.

§ 23. The directors of a stock corporation shall not make dividends, except from the surplus profits arising from the business of such corporation; nor divide, withdraw or in any way pay to the stockholders, or any of them, any part of the capital of such corporation, or reduce its capital stock, except as authorized by law. In case of any violation of the provisions of this section, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large upon the minutes of such directors at the time, or were not present when the same happened, shall jointly and severally be liable to such corporation, and to the creditors thereof, to the full amount of the capital of such corporation so divided, withdrawn, paid out or reduced. But this section shall not prevent a division and distribution of the assets of any such corporation remaining after the payment of all its debts and liabilities upon the dissolution of such corporation or the expiration of its charter.

LIABILITY OF DIRECTORS FOR UNAUTHORIZED DEBTS AND OVER ISSUE OF BONDS.

§ 24. No stock corporation, except a monied corporation, shall create any debt, if thereby its total indebtedness not secured by mortgage shall exceed the amount of its paid-up capital stock, and the directors creating or consenting to the creation of any such debt shall be personally liable therefor to the creditors of the corporation. If bonds or other obligations of the corporation, secured by mortgage, are issued in excess of the amount authorized by law, or in violation of law, the directors voting for such over-issue, or unlawful issue, shall be personally liable to the holders of the bonds or other obligations illegally issued for the amount held by them, and to all persons sustaining damage by such illegal issues for any damage caused thereby.

Section 24 of the stock corporation law does not apply to a railroad corporation. See section 23, Railroad Law, post.

LIABILITY OF DIRECTORS FOR LOANS TO STOCKHOLDERS.

§ 25. No loan of moneys shall be made by any stock corporation, except a monied corporation, or by any officer thereof out of its funds to any stockholder therein, nor shall any such corporation or officer discount any note or other evidence of debt, or receive the same in payment of any installment or any part thereof due or to become due on any stock in such corporation, or receive or discount any note, or other evidence of debt, to enable any stockholder to

See sections of Penal Code as to certain penalties, *post*.

withdraw any part of the money paid in by him on his stock. In case of the violation of any provision of this section, the officers or directors making such loan, or assenting thereto, or receiving or discounting such notes or other evidences of debt, shall, jointly and severally, be personally liable to the extent of such loan and interest, for all the debts of the corporation contracted before the repayment of the sum loaned, and to the full amount of the notes or other evidences of debt so received or discounted, with interest from the time such liability accrued.

TRANSFERS OF STOCK BY STOCKHOLDER INDEBTED TO CORPORATION.

§ 26. If a stockholder shall be indebted to the corporation, the directors may refuse to consent to a transfer of his stock until such indebtedness is paid, provided a copy of this section is written or printed upon the certificate of stock.

OFFICERS.

§ 27. The directors of a stock corporation may appoint from their number a president, and may appoint a secretary, treasurer, and other officers, agents and employes, who shall respectively have such powers and perform such duties in the management of the property and affairs of the corporation, subject to the control of the directors, as may be prescribed by them or in the by-laws. The directors may require any such officer, agent or employe to give security for the faithful performance of his duties, and may remove him at pleasure. The policyholders of an insurance corporation shall be eligible to election or appointment as its officers.

INSPECTORS AND THEIR OATH.

§ 28. The inspectors of election of every stock corporation shall be appointed in the manner prescribed in the by-laws, but the inspectors of the first election of directors and of all previous meetings of the stockholders shall be appointed by the board of directors named in the certificate of incorporation. No director or officer of a monied corporation shall be eligible to election or appointment as inspector. Each inspector shall be entitled to a reasonable compensation for his services, to be paid by the corporation, and if any inspector shall refuse to serve, or neglect to attend at the election, or his office become vacant, the meeting may appoint an inspector in his place unless the by-laws otherwise provide. The inspectors appointed to act at any meeting

See Sections of Penal Code as to certain penalties, *post*.

of the stockholders shall, before entering upon the discharge of their duties, be sworn to faithfully execute the duties of inspector at such meeting with strict impartiality, and according to the best of their ability, and the oath so taken shall be subscribed by them, and immediately filed in the office of the clerk of the county in which such election or meeting shall be held, with a certificate of the result of the vote taken thereat.

BOOKS TO BE KEPT.

§ 29. Every stock corporation shall keep at its office, correct books of account of all its business and transactions, and a book to be known as the stock-book, containing the names, alphabetically arranged, of all persons who are stockholders of the corporation, showing their places of residence, the number of shares of stock held by them respectively, the time when they respectively became the owners thereof, and the amount paid thereon. The stock-book of every such corporation shall be open daily, during business hours, for the inspection of its stockholders and judgment creditors, who may make extracts therefrom. No transfer of stock shall be valid as against the corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the corporation according to the provisions of this chapter, until it shall have been entered in such book as required by this section, by an entry showing from and to whom transferred. Such latter book shall be presumptive evidence of the facts therein so stated in favor of the plaintiff, in any action or proceeding against such corporation or any of its officers, directors or stockholders. Every corporation that shall neglect or refuse to keep or cause to be kept such books, or to keep any book open for inspection as herein required, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect or refuse. If any officer or agent of any such corporation shall willfully neglect or refuse to make any proper entry in such book or books, or shall neglect or refuse to exhibit the same, or allow them to be inspected and extracts taken therefrom as provided in this section, the corporation and such officer or agent shall each forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all damages resulting to him therefrom.

ANNUAL REPORT.

§ 30. Every domestic stock corporation and every foreign stock corporation doing business within this state, except moneyed and railroad

corporations, shall annually, during the month of January, or, if doing business without the United States, before the first day of May, make a report as of the first day of January, which shall state :

1. The amount of its capital stock, and the proportion actually issued.
2. The amount of its debts or an amount which they do not then exceed.
3. The amount of its assets or an amount which its assets at least equal.

Such report shall be signed by a majority of its directors, and verified by the oath of the president or vice-president and treasurer or secretary, and filed in the office of the secretary of state, and in the office of the county clerk of the county within this state where its principal business office may be located. If such report is not so made and filed, all the directors of the corporation shall jointly and severally be personally liable for all the debts of the corporation then existing, and for all contracted before such report shall be made. No director shall be liable for the failure to make and file such report if he shall file with the secretary of state, within thirty days after the first day of February, or the first day of May, as the case may be, a verified certificate, stating that he has endeavored to have such report made and filed, but that the officers or a majority of the directors have refused and neglected to make and file the same, and shall append to such certificate a report containing the items required to be stated in such annual report, so far as they are within his knowledge or are obtainable from sources of information open to him, and verified by him to be true to the best of his knowledge, information and belief. (*Thus amended by chap. 384, Laws of 1897.*)

See chap. 383, Laws 1897, *post*.

LIABILITY OF OFFICERS FOR FALSE CERTIFICATES, REPORTS OR PUBLIC NOTICES.

§ 31. If any certificate or report made or public notice given by the officers or directors of a stock corporation shall be false in any material representation, the officers and directors signing the same shall jointly and severally be personally liable to any person who has become a creditor or stockholder of the corporation upon the faith of any such certificate, report, notice or any material representation therein to the amount of the debt contracted upon the faith thereof if not paid when due, or of the damage sustained by any purchaser of or subscriber to its stock upon the faith thereof. The liability imposed by this section shall exist in all cases where the contents of any such certificate, report or notice or of any material representation therein shall have been communicated either directly or in-

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directly to the person so becoming a creditor or stockholder and he became such creditor or stockholder upon the faith thereof. No action can be maintained for a cause of action created by this section unless brought within two years from the time the certificate, report or public notice shall have been made or given by the officers or directors of such corporation.

ALTERATION OR EXTENSION OF BUSINESS.

§ 32. Any stock corporation heretofore or hereafter organized under any general or special law of this state may extend or alter its business and powers so as to include any purposes and powers which at the time of such extension may have been conferred by law upon corporations engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character, by filing in the manner provided for the original certificate of incorporation an amended certificate, executed by a majority of its directors, stating the extension of business and powers and rights proposed, and that the same has been duly authorized by a vote of stockholders representing at least three-fifths of the capital stock, at a meeting of the stockholders called for the purpose in the manner provided in section forty-five of this chapter, and a copy of the proceedings of such meeting, verified by the affidavit of one of the directors present thereat, shall be filed with such amended certificate.

SALE OF FRANCHISE AND PROPERTY.

§ 33. A stock corporation, except a railroad corporation and except as otherwise provided by law, with the consent of two-thirds of its stock, may sell and convey its property, rights, privileges and franchises, or any interest therein or any part thereof to a domestic corporation, engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character; and such sale and conveyance shall vest the rights, property and franchises thereby transferred in the corporation to which they are conveyed for the term of its corporate existence, subject to the provisions and restrictions applicable to the corporation conveying them. Before such sale or conveyance shall be made such consent shall be obtained at a meeting of the stockholders called upon like notice as that required for an annual meeting. If any stockholder not voting in favor of such

proposed sale or conveyance shall at such meeting, or within twenty days thereafter object to such sale, and demand payment for his stock, he may, within sixty days after such meeting, apply to the supreme court at any special term thereof held in the district in which the principal place of business of such corporation is situated, upon eight days notice to the corporation, for the appointment of three persons to appraise the value of such stock, and the court shall appoint three such appraisers, and designate the time and place of their proceedings as shall be deemed proper, and also direct the manner in which payment for such stock shall be made to such stockholder. The court may fill any vacancy in the board of appraisers occurring by refusal or neglect to serve or otherwise. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and certify the value of such stock at the time of such dissent, and deliver one copy to such corporation, and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the corporation. When the corporation shall have paid the amount of such appraisal, as directed by the court, such stockholders shall cease to have any interest in such stock and in the corporate property of such corporation and such stock may be held or disposed of by such corporation. (*This section added by chap. 638, Laws 1893.*)

§ 34. No director or officer of any stock corporation shall be liable to any creditor of the corporation, because of the creation of any excessive indebtedness, or because of any failure to make or to file an annual report, whether heretofore or hereafter occurring:

(1) In case of any debt, as to which personal liability of directors or officers may be or shall have been waived by such creditor, or by anyone under whom he claims; or by any provision of any instrument creating or securing such debt; or

(2) Unless within three years after the occurrence of the act or the default in respect of which it shall be sought to charge the director or officer, such creditor shall have served upon such director or officer written notice of his intention to hold him personally liable for his claim; provided, nevertheless, that any such liability, because of any such default now existing and not waived as above provided, may be enforced by action begun at any time within the year eighteen hundred and ninety-nine or by action

begun thereafter, if within such year written notice of intention to enforce such liability shall have been given as above provided.

Any director or officer, who, because of any such existing or future liability, shall pay any debt of the corporation, shall be subrogated to all rights of the creditor in respect thereof against the corporate property, but not against the stockholders of the corporation; and also shall be entitled to contribution from all other directors and officers of the corporation similarly liable for the same debt, and the personal representatives of any such director or officer who shall have died before making such contribution. (*This section added by chap. 354, Laws 1899.*)

ARTICLE III.

STOCK; STOCKHOLDERS, THEIR RIGHTS AND LIABILITIES.

SECTION 40. Issue and transfer of stock.

41. Subscriptions to stock.
42. Consideration for issue of stock and bonds.
43. Time of payment of subscriptions to stock.
44. Increase or reduction of capital stock.
45. Notice of meeting to increase or reduce capital stock.
46. Conduct of such meeting; certificate of increase or reduction.
47. Preferred and common stock.
48. Prohibited transfers to officers or stockholders.
49. Payment by stockholders of mortgage debt pending foreclosure.
50. Application to court to order issue of new in place of lost certificate of stock.
51. Order of court upon such application.
52. Financial statement to stockholders.
53. Exhibition of books by transfer agent of foreign corporation.
54. Liabilities of stockholders.
55. Limitation of stockholder's liability.
56. Increase or reduction of number of shares.
57. Voluntary dissolution.
58. Merger.
59. Change of place of business.

ISSUE AND TRANSFERS OF STOCK.

§ 40. The stock of every stock corporation shall be represented by certificates prepared by the directors and signed by the president or vice-president and secretary or treasurer and sealed with the seal of the corporation, and shall be transferable in the manner prescribed in this chapter and in the by-laws. No share shall be transferable until all previous calls thereon shall have been fully paid in.

Any stock corporation, domestic or foreign, now existing or hereafter organized, except monied corporations, may purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and issue in exchange therefor its stock, bonds or other obligations if authorized so to do by a provision in the certificate of incorporation of such stock corporation, or in any certificate amendatory thereof or supplementary thereto, filed in pursuance of law, or if the corporation whose stock is so purchased, acquired, held or disposed of, is engaged in a business similar to that of such stock corporation, or engaged in the manufacture, use or sale of the property, or in the construction or operation of works necessary or useful in the business of such stock corporation, or in which or in connection with which the manufactured articles, product or property of such stock corporation are or may be used, or is a corporation with which such stock corporation is or may be authorized to consolidate. When any such corporation shall be a stockholder in any other corporation, as herein provided, its president or other officers shall be eligible to the office of director of such corporation, the same as if they were individually stockholders therein and the corporation holding such stock shall possess and exercise in respect thereof, all the rights, powers and privileges of individual owners or holders of such stock.

Any stock corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose by notice in writing signed by a majority of the directors of such corporation stating the time and place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail at his last-known post-office address at least sixty days prior to such meeting, guarantee the bonds of any other domestic corporation engaged in the same general line of business.

SUBSCRIPTIONS TO STOCK.

§ 41. If the whole capital stock shall not have been subscribed at the time of filing the certificate of incorporation, the directors named

in the certificate may open books of subscription to fill up the capital stock in such places, and after giving such notices as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber, whose subscription is payable in money, shall pay to the directors ten per centum upon the amount subscribed by him in cash, and no such subscription shall be received or taken without such payment.

CONSIDERATION FOR ISSUE OF STOCK AND BONDS.

§ 42. No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation. No such stock shall be issued for less than its par value.

No such bonds shall be issued for less than the fair market value thereof.

TIME OF PAYMENT OF SUBSCRIPTIONS TO STOCK.

§ 43. Subscriptions to the capital stock of a corporation shall be paid at such times and in such installments as the board of directors may by resolution require. If default shall be made in the payment of any installment as required by such resolution, the board may declare the stock and all previous payments thereon forfeited for the use of the corporation, after the expiration of sixty days from the service on the defaulting stockholder, personally or by mail directed to him at his last-known post-office address, of a written notice requiring him to make payment within sixty days from the service of the notice at a place specified therein, and stating that, in case of failure to do so, his stock and all previous payments thereon will be forfeited for the use of the corporation.

Such stock, if forfeited, may be reissued or subscriptions therefor may be received as in the case of stock not issued or subscribed for. If not sold for its par value or subscribed for within six months after such forfeiture, it shall be cancelled and deducted from the amount of the capital stock. If by such cancellation, the amount of the capital stock is reduced below the minimum required by law, the capital stock shall be increased to the required amount within three months thereafter or an action may be brought or proceedings instituted to close up the business of the corporation as in the case of an insolvent corporation. If a receiver of the assets of the corporation has been appointed, all unpaid subscriptions to the stock shall be paid at such times and in such installments as the receiver or the court may direct.

INCREASE OR REDUCTION OF CAPITAL STOCK.

§ 44. Any domestic corporation may increase or reduce its capital stock in the manner herein provided, but not above the maximum or below the minimum, if any, prescribed by law. If increased, the holders of the additional stock issued shall be subject to the same liabilities with respect thereto as are provided by law in relation to the original capital; if reduced, the amount of its debts and liabilities shall not exceed the amount of its reduced capital, unless an insurance corporation, in which case the amount of its debts and liabilities shall not exceed the amount of its reduced capital and other assets. The owner of any stock shall not be relieved from any liability existing prior to the reduction of the capital stock of any stock corporation. If a banking corporation, whether the capital be increased or reduced, its assets shall at least be equal to its debts and liabilities and the capital stock, as increased or reduced. A domestic railroad corporation may increase or reduce its capital stock in the manner herein provided notwithstanding any provision contained herein or in any general or special law fixing or limiting the amount of capital stock which may be issued by it. (*Thus amended by chap. 696, Laws 1899.*)

NOTICE OF MEETING TO INCREASE OR REDUCE CAPITAL STOCK.

§ 45. Every such increase or reduction must be authorized by a vote of the stockholders owning at least a majority of the stock of the corporation, taken at a meeting of the stockholders specially called for that purpose. Notice of the meeting, stating the time, place and object, and the amount of the increase or reduction proposed, signed by a majority of the directors, shall be published once a week, for at least two successive weeks, in a newspaper in the county where its principal business office is located, if any is published therein, and a copy of such notice shall be personally served upon or duly mailed to each stockholder or member at his last-known post-office address at least three weeks before the meeting. (*Thus amended by chap. 700, Laws 1893.*)

CONDUCT OF SUCH MEETING ; CERTIFICATE OF INCREASE OR REDUCTION.

§ 46. If, at the time and place specified in the notice, the stockholders shall appear in person or by proxy, in numbers representing at least a majority of all the shares of stock, they shall organize by choosing from their number a chairman and secretary, and take a vote of those present in person or by proxy, and if a sufficient number of votes shall be given in favor of such increase or reduction, a certificate of the proceedings, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the whole amount of debts and liabilities of the corporation, and the amount of the increased or reduced capital stock, shall be made,

signed, verified and acknowledged by the chairman and secretary of the meeting, and filed in the office of the clerk of the county where its principal place of business shall be located, and a duplicate thereof in the office of the secretary of state. In case of a reduction of the capital stock, except of a railroad corporation, or a monied corporation, such certificate shall have indorsed thereon the approval of the comptroller, to the effect that the reduced capital is sufficient for the proper purposes of the corporation, and is in excess of its debts and liabilities, and in case of the increase, or reduction of the capital stock of a railroad corporation, or a monied corporation, the certificate shall have indorsed thereon the approval of the board of railroad commissioners, if a railroad corporation; of the superintendent of banks, if a corporation formed under or subject to the banking law; and of the superintendent of insurance, if an insurance corporation.

When the certificate herein provided for has been filed, the capital stock of such corporation shall be increased or reduced, as the case may be, to the amount specified in such certificate. The proceedings of the meeting at which such increase or reduction is voted, shall be entered upon the minutes of the corporation. If the capital stock is reduced, the amount of capital over and above the amount of the reduced capital shall be returned to the stockholders pro rata at such times and in such manner as the directors shall determine. *(Thus amended by chap. 700, Laws of 1893.)*

PREFERRED AND COMMON STOCK.

§ 47. Every domestic stock corporation may have preferred and common stock, and different classes of preferred stock, if the certificate of incorporation so provides or by the unanimous consent of the stockholders, and may, upon the written request of the holder of any preferred stock, by a two-thirds vote of its directors, exchange the same for common stock, and issue certificates for common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for the organization of such corporation, or the issue of such preferred stock, but the total amount of such capital stock shall not be increased thereby.

PROHIBITED TRANSFERS TO OFFICERS OR STOCKHOLDERS.

§ 48. No corporation which shall have refused to pay any of its notes or other obligations when due, in lawful money of the United States, nor any of its officers or directors, shall transfer any of its property to any of its officers, directors or stockholders, directly or

indirectly, for the payment of any debt, or upon any other consideration than the full value of the property paid in cash. No conveyance, assignment or transfer of any property of any such corporation by it or by any officer, director or stockholder thereof, nor any payment made, judgment suffered, lien created or security given by it or by any officer, director or stockholder when the corporation is insolvent or its insolvency is imminent, with the intent of giving a preference to any particular creditor over other creditors of the corporation shall be valid.

Every person receiving by means of any such prohibited act or deed any property of the corporation shall be bound to account therefor to its creditors or stockholders or other trustees.

No stockholder of any such corporation shall make any transfer or assignment of his stock therein to any person in contemplation of its insolvency. Every transfer or assignment or other act done in violation of the foregoing provisions of this section shall be void.

No conveyance, assignment or transfer of any property of a corporation formed under or subject to the banking law, exceeding in value one thousand dollars shall be made by such corporation, or by any officer or director thereof, unless authorized by a previous resolution of its board of directors, except promissory notes or other evidences of debt issued or received by the officers of the corporation in the transaction of its ordinary business and except payments in specie or other current money or in bank bills made by such officers. No such conveyance, assignment or transfer shall be void in the hands of a purchaser for a valuable consideration without notice.

Every director or officer of a corporation who shall violate or be concerned in violating any provision of this section, shall be personally liable to the creditors and stockholders of the corporation of which he shall be director or an officer to the full extent of any loss they may respectively sustain by such violation.

PAYMENT BY STOCKHOLDERS OF MORTGAGE DEBT PENDING FORECLOSURE

§ 49. Whenever default shall be made by any corporation in the payment of principal or interest of any of its bonds secured by mortgage or deed of trust of its property, any stockholder may at any time during the pendency of the foreclosure of such mortgage or deed of trust and before the sale thereunder pay to the mortgagees or grantees in such mortgage or deed, for the use and benefit of the holders of such bonds, a sum equal to such proportion of the amount due and secured to be paid by such mortgage or deed, as his stock

in such corporation shall bear to its whole capital stock, and on making such payment he shall to the extent thereof become and be interested in such mortgage or deed and protected thereby.

APPLICATION TO COURT TO ORDER ISSUE OF NEW IN PLACE OF LOST CERTIFICATE OF STOCK.

§ 50. The owner of a lost or destroyed certificate of stock, if the corporation shall refuse to issue a new certificate in place thereof, may apply to the supreme court, at any special term held in the district where he resides, or in which the principal business office of the corporation is located, for an order requiring the corporation to show cause why it should not be required to issue a new certificate in place of the one lost or destroyed. The application shall be by petition, duly verified by the owner, stating the name of the corporation, the number and date of the certificate, if known, or if it can be ascertained by the petitioner; the number of shares named therein, to whom issued, and as particular a statement of the circumstances attending such loss or destruction as the petitioner can give. Upon the presentation of the petition the court shall make an order requiring the corporation to show cause, at a time and place therein mentioned, why it should not issue a new certificate of stock in place of the one described in the petition. A copy of the petition and order shall be served on the president or other head of the corporation, or on the secretary or treasurer thereof, personally, at least ten days before the time for showing cause.

ORDER OF COURT UPON SUCH APPLICATION.

§ 51. Upon the return of the order, with proof of due service thereof, the court shall, in a summary manner, and in such mode as it may deem advisable, inquire into the truth of the facts stated in the petition, and hear the proofs and allegations of the parties in regard thereto, and if satisfied that the petitioner is the lawful owner of the number of shares, or any part thereof, described in the petition, and that the certificate therefor has been lost or destroyed, and cannot after due diligence be found, and that no sufficient cause has been shown why a new certificate should not be issued, it shall make an order requiring the corporation, within such time as shall be therein designated, to issue and deliver to the petitioner a new certificate for the number of shares specified in the order, upon depositing such security, or filing a bond in such form and with such sureties as to the court shall appear sufficient to indemnify any person other than the petitioner who shall thereafter be found to be the

lawful owner of the certificate lost or destroyed; and the court may direct the publication of such notice, either before or after making such order as it shall deem proper. Any person claiming any rights under the certificates alleged to have been lost or destroyed shall have recourse to such indemnity, and the corporation shall be discharged from all liability to such person upon compliance with such order; and obedience to the order may be enforced by attachment against the officer or officers of the corporation on proof of his or their refusal to comply with it.

FINANCIAL STATEMENT TO STOCKHOLDERS.

§ 52. Stockholders owning five per centum of the capital stock of any corporation other than a monied corporation, not exceeding one hundred thousand dollars, or three per centum where it exceeds one hundred thousand dollars, may make a written request to the treasurer or chief fiscal officer thereof, for a statement of its affairs, under oath, embracing a particular account of all its assets and liabilities, and the treasurer shall make such statement and deliver it to the person presenting the request within thirty days thereafter, and keep on file for twelve months thereafter a copy of such statement, which shall at all times during business hours be exhibited to any stockholder demanding an examination thereof; but the treasurer or such chief fiscal officer shall not be required to deliver more than one such statement in any one year. The supreme court, or any justice thereof, may upon application, for good cause shown, extend the time for making and delivering such certificate. For every neglect or refusal of the treasurer or other chief fiscal officer thereof to comply with the provisions of this section he shall forfeit and pay to the person making such request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished.

STOCK BOOKS OF FOREIGN CORPORATIONS.

§ 53. Every foreign stock corporation having an office for the transaction of business in this state, except moneyed and railroad corporations, shall keep therein a book to be known as a stock book, containing the names, alphabetically arranged, of all persons who are stockholders of the corporation, showing their places of residence, the number of shares of stock held by them respectively, the time when they respectively became the owners thereof, and the amount paid thereon. Such stock book shall be open daily, during business hours, for the inspection of its stockholders and judgment creditors, and any officer of the state authorized by law to investigate the affairs of any such corporation. If any such foreign stock

corporation has in this state a transfer agent, whether such agent shall be a corporation or a natural person, such stock book may be deposited in the office of such agent and shall be open to inspection at all times during the usual hours of transacting business, to any stockholder, judgment creditor or officer of the state authorized by law to investigate the affairs of such corporations. For any refusal to allow such book to be inspected, such corporation and the officer or agent so refusing shall each forfeit the sum of two hundred and fifty dollars to be recovered by the person to whom such refusal was made. (*Thus amended by chap. 384, Laws 1897.*)

See chap. 383, Laws 1897, *post*.

LIABILITIES OF STOCKHOLDERS.

§ 54. The stockholders of every stock corporation shall, jointly and severally, be personally liable to its creditors, to an amount equal to the amount of the stock held by them respectively, for every debt of the corporation, until the whole amount of its capital stock issued and outstanding at the time such debt was incurred shall have been fully paid. The stockholders of every stock corporation shall, jointly and severally, be personally liable for all debts due and owing to any of its laborers, servants or employes other than contractors, for services performed by them for such corporation. Before such laborer, servant or employe shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services. No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof, and shall be liable as stockholder; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward, or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

LIMITATION OF STOCKHOLDER'S LIABILITY.

§ 55. No action shall be brought against a stockholder for any debt of the corporation until judgment therefor has been recovered against the corporation, and an execution thereon has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable, with costs against the stockholder. No stockholder shall be personally liable for any debt of the corporation not payable within two years from the time it is

contracted, nor unless an action for its collection shall be brought against the corporation within two years after the debt becomes due; and no action shall be brought against a stockholder after he shall have ceased to be a stockholder, for any debt of the corporation, unless brought within two years from the time he shall have ceased to be a stockholder.

INCREASE OR REDUCTION OF NUMBER OF SHARES.

§ 56. A stock corporation may provide that the number of shares into which its capital stock is divided shall be increased or reduced by a two-thirds vote of all stock duly represented at a meeting held and conducted in like manner, and upon filing a like certificate, as required for the increase or reduction of its capital stock. If such increase or reduction of the number of shares be so authorized, the corporation shall issue to each stockholder certificates for as many shares of the new stock as equal in par value the shares of the old stock held by him, upon surrender and cancellation of such old stock. This section does not authorize the increase or reduction of the capital stock of such corporation. (*This section added by chap. 196, Laws 1893.*)

VOLUNTARY DISSOLUTION.

§ 57. Any stock corporation, except a moneyed or a railroad corporation, may be dissolved before the expiration of the time limited in its certificate of incorporation or in its charter as follows: The board of directors of any such corporation may at a meeting called for that purpose upon, at least, three days' notice to each director, by a vote of a majority of the whole board, adopt a resolution that it is in their opinion advisable to dissolve such corporation forthwith, and thereupon shall call a meeting of the stockholders for the purpose of voting upon a proposition that such corporation be forthwith dissolved. Such meeting of the stockholders shall be held, not less than thirty nor more than sixty days after the adoption of such resolution, and the notice of the time and place of such meeting so called by the directors shall be published in one or more newspapers published and circulating in the county wherein such corporation has its principal office, at least once a week for three weeks successively next preceding the time appointed for holding such meeting, and on or before the day of the first publication of such notice, a copy thereof shall be served personally on each stockholder, or mailed to him at his last-known post-office address. Such meeting shall be held in the city, town or village in which the last preceding meeting of the corporation was held, and said meeting may, on the day so appointed, by the consent of a majority in interest of the

stockholders present, be adjourned from time to time, and notice of such adjournment shall be published in the newspapers in which the notice of the meeting was published. If at any such meeting the holders of two-thirds in amount of the stock of the corporation, then outstanding, shall, in person or by attorney, consent that such dissolution shall take place and signify such consent, in writing, then, such corporation shall file such consent, attested by its secretary or treasurer, and its president or vice-president, together with the powers of attorney signed by such stockholders executing such consent by attorney, with a statement of the names and residences of the then existing board of directors of said corporation, and the names and residences of its officers duly verified by the secretary or treasurer or president of said corporation, in the office of the secretary of state. The secretary of state shall thereupon issue to such corporation, in duplicate, a certificate of the filing of such papers and that it appears therefrom that such corporation has complied with this section in order to be dissolved, and one of such duplicate certificates shall be filed by such corporation in the office of the clerk of the county in which such corporation has its principal office; and thereupon such corporation shall be dissolved and shall cease to carry on business, except for the purpose of adjusting and winding up its business. The board of directors shall cause a copy of such certificate to be published at least once a week for two weeks in one or more newspapers published and circulating in the county in which the principal office of such corporation is located, and at the expiration of such publication, the said corporation by its board of directors shall proceed to adjust and wind up its business and affairs with power to carry out its contracts and to sell its assets at public or private sale, and to apply the same in discharge of debts and obligations of such corporation, and after paying and adequately providing for the payment of such debts and obligations, to distribute the balance of assets among the stockholders of said corporation, according to their respective rights and interests. Said corporation shall nevertheless continue in existence for the purpose of paying, satisfying and discharging any existing debts or obligations, collecting and distributing its assets and doing all other acts required in order to adjust and wind up its business and affairs, and may sue and be sued for the purpose of enforcing such debts or obligations, until its business and affairs are fully adjusted and wound up. (*This section added by chap. 932, Laws of 1896.*)

MERGER.

§ 58. Any stock corporation lawfully owning all the stock of any other stock corporation organized for, or engaged in business similar or incidental to that of the possessor corporation may file in the office of the

secretary of state, under its common seal, a certificate of such ownership, and of the resolution of its board of directors to merge such other corporation, and thereupon it shall acquire and become, and be possessed of all the estate, property, rights, privileges and franchises of such other corporation, and they shall vest in and be held and enjoyed by it as fully and entirely and without change or diminution as the same were before held and enjoyed by such other corporation, and be managed and controlled by the board of directors of such possessor corporation, and in its name, but without prejudice to any liabilities of such other corporation or the rights of any creditors thereof. (*This section added by chap. 932, Laws of 1896.*)

CHANGE OF PLACE OF BUSINESS.

§ 59. Any stock corporation now existing or hereafter organized under the laws of this state, except monied corporations, may at any time change its principal office and place of business from the city, town or county named in its certificate of incorporation, or to which it may have been changed under the provisions of this section, to any other city, town or county in this state, in which it may desire to actually transact and carry on its regular business from day to day, provided, and * such change has been authorized by a vote of the stockholders of said corporation at a special meeting of stockholders called for that purpose. When such change shall be authorized by the stockholders as herein provided, the president and secretary and a majority of the directors of such corporation shall sign a certificate stating the name of said corporation, the city, town and county where its principal office and place of business was originally located, and to which it may have been subsequently changed, and the city, town and county to which it is desired to change its said principal office and place of business, and that it is the purpose of said corporation to actually transact and carry on its regular business from day to day at such place, and that such change has been authorized as herein provided, and the names of the directors of said corporation and their respective places of residence, which certificate shall be verified by the oaths of all the persons signing the same, and when so signed and verified, shall be filed in the office of the secretary of state and a duplicate thereof in the office of the clerk of the county from which said principal office and place of business is about to be removed or changed, and another in the office of the clerk of the county to which said removal or change is to be made, and thereupon the principal office and place of business of such corporation shall be changed as stated in said certificate. (*This section added by chap. 929, Laws of 1896.*)

* So in the original.

**LIABILITIES OF OFFICERS, DIRECTORS AND STOCKHOLDERS
OF FOREIGN CORPORATIONS.**

§ 60. Except as otherwise provided in this chapter the officers, directors and stockholders of a foreign stock corporation transacting business in this state, except moneyed and railroad corporations, shall be liable under the provisions of this chapter, in the same manner and to the same extent as the officers, directors and stockholders of a domestic corporation, for :

1. The making of unauthorized dividends ;
2. The creation of unauthorized and excessive indebtedness ;
3. Unlawful loans to stockholders ;
4. Making false certificates, reports or public notices ;
5. An illegal transfer of the stock and property of such corporation, when it is insolvent or its insolvency is threatened ;
6. The failure to file an annual report.

Such liabilities may be enforced in the courts of this state, in the same manner as similar liabilities imposed by law upon the officers, directors and stockholders of domestic corporations. (*Added by chap. 384, Laws 1897.*)

See chap. 383, Laws 1897, *post*.

See sections of Penal Code as to certain penalties, *par.*

THE RAILROAD LAW.

Being chapter 565 of the Laws of 1890, as amended to and including the session of the Legislature of the year 1899.)

AN ACT in relation to railroads, constituting chapter thirty-nine of the general laws.

CHAPTER XXXIX OF THE GENERAL LAWS.

THE RAILROAD LAW.

- ARTICLE 1. Organization ; general powers ; location (§§ 1-21).
2. Construction ; operation ; management (§§ 30-59).
3. Consolidation ; lease ; sale ; reorganization (§§ 70-84).
4. Street surface railroads (§§ 90-110).
5. Other railroads in cities and counties (§§ 120-142).
6. Board of railroad commissioners (§§ 150-172).
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ARTICLE I.

ORGANIZATION, GENERAL POWERS, LOCATION.

- SECTION 1. Short title.
2. Incorporation.
3. Supplemental certificate.
4. Additional powers conferred.
 1. Entry upon land for purpose of survey.
 2. Acquisition of real property.
 3. Construction of road.
 4. Intersection of streams, highways, plank-roads, turnpikes and canals.
 5. Intersection of other railroads.
 6. Buildings and stations.
 7. Transportation of persons and property.
 8. Time and manner of transportation.
 9. Purchase of lands and stock in other states.
 10. Power to borrow money and make mortgage.
5. When corporate powers to cease.
6. Location of route.
7. Acquisition of title to real property.
8. Railroads through public lands.
9. Railroads through Indian lands.
10. Railroads through Chautauque assembly grounds.
11. Intersection of highways, additional lands for.

SECTION 12. Intersection of other railroads.

13. Change of route, grade or terminus.
14. Construction of part of line in another state.
15. Two roads having the same location.
16. Tunnel railroads.
17. Railroads in foreign countries.
18. Additional corporate powers of such road.
19. Location of principal office of such road.
20. Individual, joint-stock association, or other corporation may lay down and maintain railroad tracks in certain cases.
21. Powers of electric light and power corporations.
21. Certain roads may be operated in the summer only.
22. Substituted lines in cases of eminent domain.
23. Section 24 of the stock corporation law does not apply to a railroad corporation.

SHORT TITLE.

SECTION 1. This chapter shall be known as the railroad law.

INCORPORATION.

§ 2. Fifteen or more persons may become a corporation, for the purpose of building, maintaining and operating a railroad, or of maintaining and operating a railroad already built, not owned by a railroad corporation, or for both purposes, by executing, acknowledging and filing a certificate, in which shall be stated :

1. The name of the corporation.
2. The number of years it is to continue.
3. The kind of road to be built or operated.
4. Its length and termini.
5. The name of each county in which any part of it is to be located.
6. The amount of capital stock, which shall not be less than ten thousand dollars for every mile of road built, or proposed to be built, except a narrow-gauge road, when it shall not be less than three thousand dollars for every such mile.
7. The number of shares into which the capital stock is to be divided.
8. If the capital stock is to consist of common and preferred stock, the amount of each class and the rights and privileges of the latter over the former.
9. The names and post-office addresses of the directors of the corporation, not less than nine, who shall manage its affairs for the first year.
10. The place where its principal office is to be located.
11. If a street surface railroad, the names and description of the streets, avenues and highways in which the road is to be constructed.
12. If it is to be a railway corporation, specified in article five of

this chapter, the statements required by that article to be inserted in the certificate of incorporation.

13. The name and post-office address of each subscriber to the certificate and the number of shares of stock he agrees to take.

Such certificate shall have indorsed thereon, or annexed thereto, to be taken as a part thereof, an affidavit of at least three of such directors that at least ten per cent. of the minimum amount of capital stock authorized by law has been subscribed thereto, and paid in good faith and in cash to the directors named in the certificate, and that it is intended in good faith to build, maintain and operate the road mentioned therein. In case of a railway corporation specified in article five of this chapter, the affidavit of the directors shall show that the full amount of such capital stock has been in good faith subscribed, and there shall be annexed to the certificate of incorporation and as a part thereof the certificate of the railroad commissioners showing the organization of the corporation for the purposes mentioned in the certificate.

The filing of every certificate, where the amount of stock required by this section has not been in good faith subscribed and paid in cash, shall be void. (*Thus amended by chap. 676, Laws 1892.*)

See, also, chap. 238, Laws 1893, *post.*

SUPPLEMENTAL CERTIFICATE.

§ 3. If the names and places of residence of the directors of the corporation have been omitted from the certificate, when executed and acknowledged, and thereafter the requisite number of directors has been chosen at a meeting of the subscribers to the certificate, a supplemental certificate, containing their names and places of residence, may be filed with such certificate with the same force and effect as if the names and places of residence of the directors had been originally inserted therein.

ADDITIONAL POWERS CONFERRED.

§ 4. Subject to the limitations and requirements of this chapter, every railroad corporation, in addition to the powers given by the general and stock corporation laws, shall have power:

ENTRY UPON LANDS FOR PURPOSES OF SURVEY.

1. To cause the necessary examination and survey for its proposed railroad to be made for the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, to enter

upon any lands or waters subject to liability to the owner for all damages done.

ACQUISITION OF REAL PROPERTY.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; and to acquire by condemnation such real estate and property as may be necessary for such construction, maintenance and accommodation in the manner provided by law, but the real property acquired by condemnation shall be held and used only for the purposes of the corporation during the continuance of the corporate existence.

CONSTRUCTION OF ROAD.

3. To lay out its road not exceeding six rods in width, and to construct the same; and, for the purpose of cuttings and embankments, to take such additional lands as may be necessary for the proper construction and security of the road; and to cut down any standing tree that may be in danger of falling on the road, upon making compensation therefor.

INTERSECTION OF STREAMS, HIGHWAYS, PLANK-ROADS, TURNPIKES AND CANALS.

4. To construct its road across, along or upon any stream, water-course, highway, plank-road, turnpike, or across any of the canals of the state, which the route of its road shall intersect or touch.

INTERSECTION OF OTHER RAILROADS.

5. To cross, intersect, join, or unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad corporation, with the necessary turn-outs, sidings, switches and other conveniences in furtherance of the objects of its connections.

BUILDINGS AND STATIONS.

6. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business.

TRANSPORTATION OF PERSONS AND PROPERTY.

7. To take and convey persons and property on its railroad by the power or force of steam or of animals, or by any mechanical power, except where such power is specially prescribed in this chapter, and to receive compensation therefor.

TIME AND MANNER OF TRANSPORTATION.

8. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

PURCHASE OF LANDS AND STOCK IN OTHER STATES.

9. To acquire and dispose of any real property in any other state through which any part of its railroad is operated, and stock in any foreign corporation owning lands in another state for the purpose of securing for such railroad corporation in this state a permanent supply of fuel for its use, and stock of corporations in this state, formed for the purpose of erecting union railway depots.

CREATION OF MORTGAGE.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad, and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purpose aforesaid, notwithstanding any limitation on such power contained in any general or special law. But no such mortgage, except purchase money mortgages, shall be issued without the consent of the board of railroad commissioners and the consent of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing, and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business; or else the consent of the board of railroad commissioners and the consent by their votes of stockholders owning at least two-thirds of the stock of the corporation, which is represented and voted upon in person or by proxy at a meeting called for that purpose upon a notice stating the time, place and object of the meeting, served at least three weeks previously upon each stockholder personally, or mailed to him at his post-office address, and also published at least once a week for three weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. Section two of the stock corporation law shall not apply to railroad corporations.

(Subdivision 10 thus amended by chap. 583, Laws 1899.) — —

WHEN CORPORATE POWERS TO CEASE.

§ 5. If any domestic railroad corporation shall not, within five years after its certificate of incorporation is filed, begin the construction of its road and expend thereon ten per centum of the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing such certificate, its corporate existence and powers shall cease. But if any such steam railroad corporation whose certificate of incorporation was filed since the year eighteen hundred and eighty, and whose road as designated in such certificate is wholly within one county and not more than ten miles in length, has acquired the real property necessary for its roadbed by purchase, its corporate existence and powers shall not be deemed to have ceased because of its failure to comply with the provisions of this article; and the time for beginning the construction of its road and expending thereon ten per centum of its capital, is extended until thirteen years from the date of the filing of such certificate and the time for finishing its road and putting it in operation, is extended until eighteen years from the date of such filing. (*Thus amended by chap. 433, Laws 1893.*)

See other laws as to expiration of time, *post*.

LOCATION OF ROUTE.

§ 6. Every railroad corporation, except a street surface railroad corporation and an elevated railway corporation, before construct-

ing any part of its road in any county named in its certificate of incorporation, or instituting any proceeding for the condemnation of real property therein, shall make a map and profile of the route adopted by it in such county, certified by the president and engineer of the corporation or a majority of the directors, and file it in the office of the clerk of the county in which the road is to be made. The corporation shall give written notice to all actual occupants of the lands over which the route of the road is so designated, and which has not been purchased by or given to it, of the time and place such map and profile were filed, and that such route passes over the lands of such occupants. Any such occupant or the owner of the land aggrieved by the proposed location, may, within fifteen days after receiving such notice, give ten days' written notice to such corporation and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the supreme court, in the judicial district where the lands are situated, by petition duly verified, for the appointment of commissioners to examine the route.

The petition shall state the objections to the route designated, shall designate the route to which it is proposed to alter the same, and shall be accompanied with a survey, map and profile of the route designated by the corporation, and of the proposed alteration thereof, and copies thereof shall be served upon the corporation and such owners or occupants with the notice of the application. The justice may, upon the hearing of the application, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the corporation, and the route to which it is proposed to alter the same, and after hearing the parties, to affirm the route originally designated, or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alterations; but no alteration of the route shall be made except by the concurrence of the commissioner, who is a practical civil engineer, nor which will cause greater damage or injury to lands or materially greater length of road than the route designated by the corporation, nor which shall substantially change the general line adopted by the corporation.

• The commissioners shall, within thirty days after their appointment, make and certify their written determination, which with the petition, map, survey and profile, and any testimony taken before them shall be immediately filed in the office of the county clerk of the county. Within twenty days after such filing, any party may,

by written notice to the other, appeal to the general term of the supreme court from the decision of the commissioners, which appeal shall be heard and decided at the next term held in the department in which the lands of the petitioners or any of them are situated, for which the same can be noticed, according to the rules and practice of the court. On the hearing of such appeal, the court may affirm the route proposed by the corporation or may adopt that proposed by the petitioner.

The commissioners shall each be entitled to six dollars per day for their services, and to their reasonable and necessary expenses, to be paid by the persons who applied for their appointment. If the route of the road, as designated by the corporation, is altered by the commissioners, or by the order of the court, the corporation shall refund to the petitioner the amount so paid, unless the decision of the commissioners is reversed upon appeal taken by the corporation. No such corporation shall institute any proceedings for the condemnation of real property in any county until after the expiration of fifteen days from the service by it of the notice required by this section. Every such corporation shall transmit to the board of railroad commissioners the following maps, profiles and drawings exhibiting the characteristics, of their road, to wit: A map or maps showing the length and direction of each straight line; the length and radius of each curve; the point of crossing of each town and county line, and the length of line of each town and county accurately determined by measurements to be taken after the completion of the road.

Whenever any part of the road is completed and used, such maps and profiles of such completed part shall be filed with such board within three months after the completion of any such portion and the commencement of its operation; and when any additional portion of the road shall be completed and used, other maps shall be filed within the same period of time, showing the additional parts so completed. If the route, as located upon the map and profile filed in the office of any county clerk, shall have been changed, it shall also cause a copy of the map and profile filed in the office of the railroad commissioners, so far as it may relate to the location in such county, to be filed in the office of the county clerk. (*Thus amended by chap. 676, Laws 1892.*)

ACQUISITION OF TITLE TO REAL PROPERTY.

§ 7. All real property, required by any railroad corporation for the purpose of its incorporation, shall be deemed to be required for

a public use. If the corporation is unable to agree for the purchase of any real property, or of any right, interest or easement therein, required for such purpose, or if the owner thereof shall be incapable of selling the same, or if after diligent search and inquiry the name and residence of such owner cannot be ascertained, it shall have the right to acquire title thereto by condemnation. It shall also have such right in the following cases:

1. Where title to real property has been acquired, or attempted to be acquired, and has been found to be invalid or defective.

2. Where its railroad shall be lawfully in possession of a lessee, mortgagee, trustee or receiver, and additional real property shall be required for the purpose of running or operating such railroad.

3. Where it shall require any further rights to lands or the use of lands for switches, turnouts, or for filling any structures of its road, or for constructing, widening or completing any of its embankments or roadbeds, by means of which greater safety or permanency may be secured, and such lands shall be contiguous to such railroad and reasonably accessible to the place where the same are to be used for such purpose or purposes.

4. Where it shall require any further right to lands or to the use of lands for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary for the operation of such railroad, or for any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same, or for any right of way required for carrying away or diverting any water, stream or floods from such railroad for the purpose of protecting its road or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring the property of any person who may be rendered liable to injury thereby.

Waters commonly used for domestic, agricultural or manufacturing purposes, shall not be taken by condemnation to such an extent as to injuriously interfere with such use in future. No railroad corporation shall have the right to acquire by condemnation any right or easement in or to any real property owned or occupied by any other railroad corporation, except the right to intersect or cross the tracks and lands owned or held for right of way by such other corporation without appropriating or affecting any lands owned or held for depots or gravel-beds. (*Thus amended by chap. 676, Laws 1892.*)

As to condemnation by street railroads, see section 90, *p. st.*

As to condemning railroad property, see section 3370, *Condemnation Law, unlc.*

RAILROADS THROUGH PUBLIC LANDS.

§ 8. The commissioners of the land office may grant to any domestic railroad corporation any land belonging to the people of the state, except the reservation at Niagara and the Concourse lands on Coney island, which may be required for the purposes of its road on such terms as may be agreed on by them; or such corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for such corporation for the purpose of its road, may grant such land to the corporation for such compensation as may be agreed upon.

RAILROADS THROUGH INDIAN LANDS.

§ 9. Any railroad corporation may contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct its railroad, for the right to make such road upon such lands, but such contract shall not vest in the corporation the fee to the land, nor the right to occupy the same for any purposes other than may be necessary for the construction, occupancy and maintenance of such railroad, and such contract shall not be valid or effectual until it shall be ratified by the county court of the county where the land shall be situated.

RAILROADS THROUGH CHAUTAUQUA ASSEMBLY GROUNDS.

§ 10. No railroad corporation shall build, construct or operate any railroad in, upon, over or through the grounds, lands or premises owned by the Chautauqua assembly corporation in the town and county of Chautauqua, without a written consent of a majority of the board of trustees of such assembly corporation.

INTERSECTION OF HIGHWAYS, ADDITIONAL LANDS FOR.

§ 11. No railroad corporation shall erect any bridge or other obstruction across, in or over any stream or lake, navigated by steam or sail boats at the place where it may be proposed to be erected, nor shall it construct its road in, upon or across any street of any city without the assent of the corporation of such city, nor across, upon or along any highway in any town or street in any incorporated village, without the order of the supreme court of the district in which such highway or street is situated, made at a special term thereof, after at least ten days' written notice of the intention to make application for such order shall have been given to the commissioners of highways of such town, or board of trustees of the village in which such highway or street is situated. Every railroad corporation which shall build its road along, across or upon any stream, watercourse,

street, highway, plankroad or turnpike, which the route of its road shall intersect or touch, shall restore the stream or watercourse, street, highway, plankroad and turnpike, thus intersected or touched, to its former state, or to such state as not to have unnecessarily impaired its usefulness, and any such highway, turnpike or plankroad may be carried by it, under or over its track, as may be found most expedient. Where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, it may construct such highway, turnpike or plankroad, on such new line as its directors may select, and may take additional lands therefor by condemnation if necessary. Such lands so taken shall become part of such intersecting highway, turnpike or plankroad, and shall be held in the same manner and by the same tenure as the adjacent parts of the highway, turnpike or plankroad are held for highway purposes. Every railroad corporation shall pay all damages sustained by any turnpike or plankroad corporation in consequence of its crossing or occupation of any turnpike or plankroad, and in case of inability to agree upon the amount of such damages it may acquire the right to such crossing or occupation by condemnation.

INTERSECTION OF OTHER RAILROADS.

§ 12. Every railroad corporation, whose road is or shall be intersected by any new railroad, shall unite with the corporation owning such new railroad in forming the necessary intersections and connections, and grant the requisite facilities therefor. If the two corporations can not agree upon the amount of compensation to be made therefor or upon the line or lines, grade or grades, points or manner of such intersections and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer and surveyor, to be appointed by the court, as is provided in the condemnation law. Such commissioners may determine whether the crossing or crossings of any railroad before constructed shall be beneath, at, or above the existing grade of such railroad, and upon the route designated upon the map of the corporation seeking the crossing or otherwise. All railroad corporations whose roads are or shall hereafter be so crossed, intersected or joined, shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads, with the same dispatch as, and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property, received at or forwarded from the same

point for individuals and other corporations. (*Thus amended by chap. 676, Laws 1892.*)

See sections 35 and 48, Railroad Law, and Chap. 239, Laws 1893, post.

CHANGE OF ROUTE, GRADE OR TERMINUS.

§ 13. Every railroad corporation, except elevated railway corporations, may, by a vote of two-thirds of all its directors, alter or change the route or any part of the route of its road or its termini, or locate such route, or any part thereof, or its termini, in a county adjoining any county named in its certificate of incorporation, if it shall appear to them that the line can be improved thereby, upon making and filing in the clerk's office of the proper county a survey, map and certificate of such alteration or change. If the same is made after the corporation has commenced grading the original route, compensation shall be made to all persons for injury done by such grading to any lands donated to the corporation. But neither terminus can be changed, under this section, to any other county than one adjoining that in which it was previously located ; nor can the route or terminus of any railroad be so changed in any town, county or municipal corporation, which has issued bonds and taken any stock or bonds in aid of the construction of such railroad without the written consent of a majority of the taxpayers appearing upon the last assessment roll of such town, county or municipal corporation, unless such terminus, after the change, will remain in the same village or city as theretofore. No alteration of the route of any railroad after its construction shall be made, or new line or route of road laid out or established, as provided in this section, in any city or village, unless approved by a vote of two-thirds of the common council of the city or trustees of the village. Any railroad corporation whose road as located terminates at any railroad previously constructed or located, whereby communication might be had with any incorporated city of the state, may amend its certificate of incorporation so as to terminate its road at the point of its intersection with any railroad subsequently located to intersect it, and thereby, by itself or its connection, afford communication with such city, with the consent of the stockholders owning two-thirds of the stock of the corporation. Any railroad corporation may, by a vote of its directors, change the grade of any part of its road, except that in the city of Buffalo such change must conform to the general plan heretofore adopted and filed by the grade crossing commissioners of said city, or any modification thereof, within the territory covered by said general plan, in such manner as it may deem necessary to avoid accidents and facilitate the use of such road ; and it may by such vote alter the grade of its road, for such distance and in such manner as it may deem necessary, on each or either side of the place where the grade of its road has been changed by direction of the

superintendent of public works, at any point where its road crosses any canal or canal feeder, except that in the city of Buffalo such change must conform to the general plan heretofore adopted and filed by the grade crossing commissioners of said city, or any modification thereof, within the territory covered by said general plan. The superintendent of public works shall have a general and supervisory power over that part of any railroad which passes over, or approaches within ten rods of any canal or canal feeder belonging to the state so far as may be necessary to preserve the free and perfect use of such canals or feeders, or to make any repairs, improvements or alterations, in the same. Any railroad corporation whose tracks cross any of the canals of the state, and the grade of which may be raised by direction of the superintendent of public works, with the assent of such superintendent, may lay out a new line of road to cross such canal at a more favorable grade, and may extend such new line and connect the same with any other line of road owned by such corporation upon making and filing in the clerk's office of the proper county a survey map and certificate of such new or altered line. No portion of the track of any railroad, as described in its certificate of incorporation, shall be abandoned under this section. (*Thus amended by chap. 235, Laws 1897.*)

CONSTRUCTION OF PART OF LINE IN ANOTHER STATE.

§ 14. Any railroad corporation, whose proposed railroad is to be built between any two points in this state, may, by a vote of two-thirds of all its directors, locate and construct a part of its road in an adjoining state, and the sections of its road within this state shall be deemed a connected line, according to the certificate of incorporation, and the directors may reduce the capital stock of the corporation to such amount as may be deemed proper, but not less than ten thousand dollars per mile for the number of miles of roads to be actually constructed in this state.

TWO ROADS HAVING THE SAME LOCATION.

§ 15. If two railroad corporations for a portion of their respective lines embrace the same location of line, or if their lines connect, or are tributary to each other, such corporations may by agreement provide for the construction by one of them of so much of such line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed, and the corporation that is not to construct the part of the line which is common to both, may amend its certificate of incorporation, and terminate its line at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of road proposed to be constructed in such amended certificate.

TUNNEL RAILROADS.

§ 16. When, according to the route and plan for the building of its road, adopted by any railroad corporation, including corporations organized under chapter one hundred and forty of the laws of eighteen hundred and fifty, and the acts amendatory thereof and supplementary thereto, it shall be necessary or proper to build it or any part of it underground, or to tunnel or bridge any river or waters, such corporation may enter upon, acquire title to and use such lands under water and uplands, except on or along any canals of the state, as shall be necessary for the purpose herein mentioned, and may construct, erect and secure the necessary foundations and other structures which may be required for operating and maintaining such road or connecting the same with another, and to acquire, in the manner provided by law, such land or rights or easements in lands along its route, upon, over or beneath the surface thereof as may be necessary for the construction of its road and making such connections. Where such road runs underneath the ground, at such depth as to enable the corporation to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof firm and safe for buildings and other erections thereon and if surface excavations are made the surface shall be restored to its former condition as soon as can be done, except so far as may be actually required for ventilation of the tunnel beneath the same or access thereto. Such road or any part of it may be built within the limits of any city or incorporated village of this state and run by means of a tunnel underneath any of the streets, roads or public places thereof, provided such corporation shall, before constructing the same underneath any such street, road or public place have obtained the consent of the owners of one-half in value of the property bounded on the line of such street, road or public place, and the consent of the board of trustees of the village, by a resolution adopted at a regular meeting and entered on the records of the board, or of the proper authorities of the city having control of such streets, roads or public places. If the consent of such property-owners can not be obtained, the general term of the supreme court in the district in which said city or village or any part thereof is situated, may upon application appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be built underneath such streets, roads or public places, or any of them, and in what manner the same may be so built with the least damage to the surface, and to the use of the

surface by the public, and the determination of the commissioners confirmed by the court may be taken in lieu of the consent of the property-owners. All railroad corporations constructing their road under this section shall be subject to all the provisions of this chapter applicable thereto. Any other railroad corporation may connect its road therewith, at such points or places as it may elect, and where such connections shall be made by connecting roads, the railroad corporations owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots, and other accommodations for handling passengers and freight, as may be required for the convenience of the public. All railroad corporations, constructing any tunnel under this section, shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary in constructing any railroad authorized by this section through any city or incorporated village, to alter the position or course of any sewer, or water or gas pipes, it shall be done at the expense of the railroad corporation under the direction of the department or corporation having charge thereof, so as not to interfere with such work. In all cases the uses of streets, docks and lands beneath which such railroad is constructed, and on the route thereof and the right of way beneath the same, for the purpose of such railroad, shall be considered, and is hereby declared, a public use, consistent with and one of the uses for which streets and docks are publicly held. No public park or square in any city or village of this state shall be used or occupied by any corporation for any of the purposes of this section, and every road constructed hereunder in or through any such street or public place shall be wholly underground and constructed in a tunnel and not otherwise, but nothing in this section shall operate to revive any charter or franchise heretofore granted by or in the city of Brooklyn. This act does not authorize the construction of any bridge over or across the East or North rivers. (*Thus amended by chap. 316, Laws 1893.*)

RAILROADS IN FOREIGN COUNTRIES.

§ 17. A railroad corporation may be formed under this chapter for the purpose of constructing, maintaining and operating in any foreign country a railroad for public use in the transportation of persons and property, or for the purpose of maintaining and operating therein any railroad already constructed, in whole or in part, for the like public use, and of constructing, maintaining and operating,

in connection therewith, telegraph lines and lines of steamboats or sailing vessels. Any corporation formed for the construction and operation of a railroad by stationary power, may construct, operate and maintain a railroad in any other state or country, if not in conflict with the laws thereof, but the assent of the inventors or patentees of the method of propulsion used must be first obtained in the same manner and to the same extent as would be necessary within the United States. (*Thus amended by chap. 676, Laws 1892.*)

ADDITIONAL CORPORATE POWERS OF SUCH ROAD.

§ 18. The corporation specified in the preceding section shall have the following additional powers:

1. To expend money in making preliminary examinations and surveys for its proposed railroad, telegraph lines, and lines of steamboats and sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges herein authorized.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges, for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted and conceded to it, and to hold the same under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its certificate of incorporation, and to take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary and convenient for the construction, maintenance and accommodation of such lines, and to sell, convey, mortgage or lease such real estate or other property; and to acquire by purchase or otherwise any railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and to issue therefor the capital stock of the company or any part thereof at such valuation or valuations and on such terms as may be agreed upon, and to mortgage or sell and convey such railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, or any part of its property to any person or corporation created by this or any other state or foreign government, subject to the laws of the country or countries where such property may be, and the power of sale hereby granted shall

be exercised only by a majority of the entire board of directors of the corporation, with the written concurrence of the holders of two-thirds in amount of its capital stock.

4. To take and convey persons and property on its transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor subject to the laws of the place or country where the same are situated.

5. To acquire and use such real estate and other property in this state as may be necessary in the conduct of its business, but the value of such real estate held at any one time shall not exceed the sum of one million dollars. (*Thus amended by chap. 504, Laws 1897.*)

LOCATION OF PRINCIPAL OFFICE OF SUCH ROAD.

§ 19. Every such corporation shall maintain its principal office within this state and shall have, during business hours, an officer or agent upon whom service of process may be made, and shall hold in this state at least one meeting of the stockholders in each year for the choice of directors, which shall be known as the annual meeting and be held at the time and place fixed by the by-laws of the corporation. (*Thus amended by chap. 676, Laws 1892.*)

INDIVIDUAL, JOINT STOCK ASSOCIATION, OR OTHER CORPORATION MAY LAY DOWN AND MAINTAIN RAILROAD TRACKS IN CERTAIN CASES.

§ 20. Any individual, joint stock association or corporation, engaged in any lawful business in this state, may, except in any city of the state, lay down and maintain such railroad tracks on or across any street or highway, not exceeding three miles in length, as shall be necessary for the transaction of its business, and to connect any place of business owned by them with the track of any railroad corporation, and render such place of business more accessible to the public, upon obtaining the written consent of the owners of all the lands bounded on and of the local authorities having control of that portion of the street or highway, upon which it is proposed to construct or operate such railroad. If the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad is to be constructed, may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and the amount of damages, if any, to be paid to such property owners, and their determination confirmed by the court may be taken in lieu of the consent of the property owners. But no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or its

use as a highway, or the use of any street or highway intersecting the same.

POWERS OF ELECTRIC LIGHT AND POWER CORPORATIONS.

§ 21. Whenever all the stockholders of any domestic electric light and power company incorporated under a general or special law, having not less than five stockholders, and actually engaged in carrying on business in this state, shall execute and file, in the offices in which its original certificates of incorporation are filed, an amended certificate of incorporation, complying in every other respect than as to the number of signers and directors, who shall not be less than five, with the provisions of the railroad law, and in which certificate the corporate name of such corporation shall be amended by adding before the word "company," in its corporate name, the words, "and railroad," or the words, "railroad and land," such corporation shall have the right to build, maintain and operate by electricity as a motive power, a railroad or railroads, not exceeding twenty-five miles in length, and within that distance from the power station, and shall also have the right to acquire the property and franchises of a railroad company or companies owning such a railroad or railroads, already constructed, and so operated, and to maintain and operate the same, provided that the directors of such railroad company or companies and all of its or their stockholders shall first have assented in writing to the transfer of the property and franchises of such railroad company or companies, to such corporation ; in which event and by the filing of such assent of directors and stockholders in the offices where the certificates of incorporation of the railroad company or companies were required to be filed, the rights, property and franchises of such railroad company or companies shall be transferred to, and shall vest in such corporation, and such corporation so acquiring such railroad or railroads shall be subject to all the provisions of chapter thirty-nine of the general laws with respect to the railroad property or properties and franchises, and shall have all the powers, rights and privileges conferred by said chapter upon railroad corporations ; provided that no such corporation shall construct any railroad which is in whole or in part a street surface railroad without complying with the provisions of article four of the railroad law. Upon filing such certificate, such corporation shall also have the right to acquire by gift or by voluntary purchase and sale, land not exceeding two thousand acres along the line of, or contiguous to, said railroad, and to hold, improve, lease or sell same. And

whenever any such corporation shall furnish power to any water-works corporation carrying on its business in the county in which the operations of such corporation are carried on, it may acquire the shares of the capital stock of said water-works corporation, and, if such corporation shall become the owner of all the stock of said water-works corporation, it may, on executing and filing a certificate in accordance with the requirements of section fifty-eight of the stock corporations law, become possessed of all the estate, rights, property, privileges and franchises of such water-works corporation, with the effect provided in said section fifty-eight. This section shall not confer any powers upon any corporation located in, or authorize the construction, maintenance or operation of a railroad in a city of the first or second class. (*Thus amended by chap. 170, Laws of 1898.*)

*§ 21. Any corporation, whose railroad is or shall be not longer than sixteen miles and is or shall be in large part intended for or used in summer travel or the convenience of summer sojourners need not operate its road beyond the months of June, July, August and September, inclusive. The motive power may be electricity. If the road be not longer than ten miles, such corporation may fix and collect fare for transporting each passenger, together with ordinary baggage, if any, not to exceed fifteen cents for each mile and fraction thereof. (*This section added to Railroad Law by chap. 700, Laws 1892.*)

See sections 37 and 55, Railroad Law, *post*.

SUBSTITUTED LINES IN CASES OF EMINENT DOMAIN.

§ 22. Where a portion of a steam surface railroad or branch thereof, shall be specifically authorized by statute to be taken for any other public use, and such portion lies wholly outside of any city, any corporation owning or operating such portion may locate, as provided in section six of this article, and may construct and operate, in substitution for such portion, and with proper connections with the former line, a new line of steam surface railroad, wholly or partly in the same or any adjoining county, and wholly outside of any city, and not exceeding twenty-five miles in length, in the manner, with the powers and subject to the limitations and requirements provided in this chapter with respect to steam surface railroads. (*This section added to Railroad Law by chap. 656, Laws of 1898.*)

§ 23. Section twenty-four of the stock corporation law does not apply to a railroad corporation. (*This section added to Railroad Law by chap. 80, Laws of 1898.*)

* So in the original.

ARTICLE II.

CONSTRUCTION, OPERATION AND MANAGEMENT.

- SECTION 30.** Liability of corporation to employes of contractor.
31. Weight of rail.
 32. Fences, farm-crossings and cattle-guards.
 33. Sign-boards and flagmen at crossings.
 34. Notice of starting trains; no preferences.
 35. Accommodation of connecting roads.
 36. Locomotives must stop at grade crossings; interlocking devices at street and steam rail'road grade crossings.
 37. Rates of fare.
 38. Legislature may alter or reduce fare.
 39. Penalty for excessive fare.
 40. Passengers refusing to pay fare may be ejected.
 41. Extra fare for sleeping car.
 42. Persons employed as drivers and conductors.
 43. Conductors and employes must wear badges.
 44. Checks for baggage.
 45. Penalties for injury to baggage.
 46. Unclaimed freight and baggage.
 47. Tickets and checks for connecting steamboats.
 48. Rights and liabilities as common carriers.
 49. Duties imposed.
 1. Switches.
 2. Warning signals.
 3. Guard posts.
 4. Automatic couplers.
 5. Automatic or other safety brake.
 6. Tools in passenger cars.
 7. Water.
 50. Railroad commissioners may approve other safeguards.
 51. Use of stoves or furnaces prohibited.
 52. Canada thistles to be cut.
 53. Riding on platform; walking along track.
 54. Corporations may establish ferries.
 55. Certain railroads may cease operations in winter.
 56. Mails.
 57. Corporations must make annual report.
 58. When conductors and brakemen may be policemen.
 59. Requisites to exercise of powers of future railroad corporations.
 - 60-69. Grade Crossing Law.

LIABILITY OF CORPORATION TO EMPLOYEES OF CONTRACTOR

§ 30. An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the ser-

vice of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due; the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

WEIGHT OF RAIL.

§ 31. The rail used in the construction or the relaying of the track of every railroad hereafter built or relaid in whole or in part, shall be of iron or steel, weighing not less than twenty-five pounds to the lineal yard on narrow gauge roads, and on all other roads not less than fifty-six pounds to the lineal yard on grades of one hundred and ten feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over one hundred and ten feet to the mile, except for turnouts, sidings and switches.

FENCES, FARM-CROSSINGS AND CATTLE-GUARDS.

§ 32. Every railroad corporation, and any lessee or other person in possession of its road, shall, before the lines of its roads are opened for use, and so soon as it has acquired the right of way for its roadway erect and thereafter maintain fences on the sides of its road of height and strength sufficient to prevent cattle, horses, sheep and hogs from going upon its roads from the adjacent lands with farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary for the use of the owners and occupants of the adjoining lands, and shall construct where not already done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad. So long as such fences are not made, or are not in good repair, the corporation, its lessees or other person in possession of its road, shall be liable for all damages done by their agents or engines or cars to any domestic animals thereon. When made and in good repair, they shall not be

liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence within the provisions of this section, but barbed wire shall not be used in its construction. No railroad need be fenced, when not necessary to prevent horses, cattle, sheep and hogs from going upon its track from the adjoining lands. Every adjoining landowner, who, or whose grantor, has received compensation for fencing the line of land taken for a railroad, and has agreed to build and maintain a lawful fence along such line, shall build and maintain such fence. If such owner, his heir or assign shall not build such fence, or if built, shall neglect to maintain the same during the period of thirty days after he has been notified so to do by the railroad corporation, such corporation shall thereafter build and maintain such fence, and may recover of the person neglecting to build and maintain it the expense thereof. And when such railroad shall cross timbered or forest lands, the company shall construct and maintain suitable and sufficient crossings, whenever and wherever reasonably necessary to enable the respective owners of said lands, to transport logs, timber and lumber for manufacture or sale, or for banking on any stream, to be floated or driven down the same. In case of any neglect or dispute the supreme court may by mandamus or other appropriate proceedings, compel the same, and also fix the point or location of any such crossing. (*Thus amended by chap. 676, Laws 1892.*)

SIGN-BOARDS AND FLAGMEN AT CROSSINGS.

§ 33. Every railroad corporation shall cause boards to be placed, well supported and constantly maintained, across each traveled public road or street, where the same is crossed by its road at grade. They shall be elevated so as not to obstruct travel, and to be easily seen by travelers; and on each side shall be painted in capital letters, each at least nine inches in length and of suitable width, the words: "Railroad crossing; look out for the cars;" but such boards need not be put up in cities and villages, unless required by the officers having charge of the streets. At any point where a railroad crosses a street, highway, turnpike, plank-road, or traveled way at grade, or where a steam railroad crosses a horse railroad at grade, and the corporation owning or operating such railroad, refuses, upon request of the local authorities, to station a flagman or erect gates, to be opened and closed when an engine or train passes, the supreme court or the county court, may, upon the application of the local authorities and upon ten days' notice to the corporation, order that

a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as it deems proper. Whenever the crossing by a railroad at grade of the streets, highways, turnpikes, plank-roads, or traveled ways of any village or city, having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same, when an engine or train passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on the rate of speed at which such engine or train shall be run, or enforce any existing limitation upon such rate of speed, less than forty miles an hour. (*Thus amended by chap. 676, Laws 1892.*)

NOTICE OF STARTING TRAINS ; NO PREFERENCES.

§ 34. Every railroad corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all passengers and property which shall be offered for transportation at the place of starting, within a reasonable time previously thereto, and at the junctions of other railroads, and at the usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to, such places on the due payment of the fare or freight legally authorized therefor. No station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the board of railroad commissioners first had and obtained. No preference for the transaction of the business of a common carrier upon its cars, or in its depots or buildings, or upon its grounds, shall be granted by any railroad corporation to any one of two or more persons, associations or corporations competing in the same business, or in the business of transporting property for themselves or others. Any such station in an incorporated village shall have the same name as the village; if any road shall have more than one such station in any such village, the station nearest the geographical center thereof shall have such name. (*Thus amended by chap. 676, Laws 1892.*)

ACCOMMODATION OF CONNECTING ROADS.

§ 35. Every railroad corporation whose road, at or near the same place, connects with or is intersected by two or more railroads competing for its business, shall fairly and impartially afford to each of

such connecting or intersecting roads equal terms of accommodation, privileges and facilities in the transportation of cars, passengers, baggage and freight over and upon its roads, and over and upon their roads, and equal facilities in the interchange and use of passenger, baggage, freight and other cars required to accommodate the business of each road, and in furnishing passage tickets to passengers who may desire to make a continuous trip over any part of its roads and either of such connecting roads. The board of railroad commissioners may, upon application of the corporation owning or operating either of the connecting or intersecting roads, and upon fourteen days' notice to the corporation owning or operating the other road, prescribe such regulations as will secure, in their judgment, the enjoyment of equal privileges, accommodations and facilities to such connecting or intersecting roads as may be required to accommodate the business of each road, and the terms and conditions upon which the same shall be afforded to each road. The decision of the commissioners shall be binding on the parties for two years, and the supreme court shall have power to compel the performance thereof by attachment, mandamus, or otherwise.

LOCOMOTIVES MUST STOP AT GRADE CROSSINGS.

§ 36. All trains and locomotives on railroads crossing each other at grade shall come to a full stop before crossing, not less than two hundred or more than eight hundred feet from the crossing, and shall then cross only when the way is clear and upon a signal from a watchman stationed at the crossing. If the corporations can not agree as to the expense of the watchman, it shall be determined by the supreme court, upon motion thereto by either of them. If the corporations disagree as to the precedence of trains, the board of railroad commissioners may, after hearing, upon the application of either corporation, prescribe rules in relation thereto. The full stop and crossing on signal may be discontinued if the board of railroad commissioners shall decide it to be impracticable, or if, with the approval of the commissioners, an interlocking switch and signal apparatus is adopted and put in operation as* such a crossing. The full stop and crossing on signal shall not be required in depot yards, or the approaches thereto, if the crossing roads are under lease or subject to the same management or control in the use of tracks. An engineer, violating the foregoing provisions of this section, or any such rule of the railroad commissioners, shall be liable to a penalty of one hundred dollars; and any corporation or person operating the railroad, violating any of such provisions or rules shall be liable to a penalty of five hundred dollars. The board of railroad commissioners may, whenever in its judgment the public safety requires the erection of interlocking switch and signal devices at points where steam and street surface railroads intersect at grade, direct the

* So in original.

erection of such devices and apportion the expense of construction, operation and maintenance thereof between the companies affected thereby. No railroad corporation, or any officer, agent or employe thereof, shall stop its cars, horses, or locomotives upon a grade crossing of a railroad of another corporation, for the purpose of receiving or delivering passengers or freight, or other purpose, and any person or corporation violating this provision, shall be liable to a penalty of two hundred and fifty dollars. (*Thus amended by chap. 466, Laws of 1898.*)

RATES OF FARE

§ 37. Every railway corporation may fix and collect the following rates of fare as compensation to be paid for transporting any passenger and his baggage, not exceeding one hundred and fifty pounds in weight, for each mile or fraction of a mile:

1. Where the motive power is rope or cable, propelled by stationary power, five cents, with right to a minimum fare of ten cents; but if the railroad is less than two miles in length, and overcomes an elevation of five hundred feet or more to the mile, five cents for each one hundred feet of elevation so overcome, and the same rates of fare if the motive power is locomotives, furnished with cogs working into cogs on the railway, and the length of road does not exceed four miles.

2. If a road, not incorporated prior to May 15, 1879, and not located in the counties of New York or Kings, or within the limits of any incorporated city, and not more than twenty-five miles in length, five cents; if over twenty-five and not more than forty miles, four cents; and if over forty miles, three cents. Where by the laying down of a third rail upon a railroad of the ordinary gauge, a narrow-gauge track is created and used for the transportation of passengers, and the length of road does not exceed six miles, including any connecting road of the same gauge, such railroad, for the purpose of fare, shall be deemed a narrow-gauge road.

3. If its railroad overcomes an elevation of two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, ten cents; if it overcomes an elevation exceeding three hundred feet to the mile, within a distance of two miles, five cents for each one hundred feet of elevation; and where it overcomes an elevation of more than one thousand feet, within a distance of two miles, seven cents for each one hundred feet of elevation in a mile.

4. If the line of its road does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city,

and the distance traveled thereon by the passenger does not exceed one mile, five cents.

5. In all other cases, three cents for every such mile or fraction thereof, with a right to a minimum single fare of not less than five cents.

This chapter shall not be construed to allow any rate of fare for way passengers greater than two cents per mile to be charged or taken over the track or tracks of the railroad known as the New York Central railroad company, and the rate of fare for way passengers over the track or tracks of such company shall continue to be two cents per mile and no more, wherever it is restricted to that rate of fare, nor shall any consolidated railroad corporation charge a higher rate of fare per passenger per mile, upon any part or portion of the consolidated line than was allowed by law to be charged by each existing corporation thereon previously to such consolidation. (*Thus amended by chap. 676, Laws 1892.*)

As to rate of fare for emigrants, see chapter 474, Laws of 1855, and section 626, Penal Code, *post*. See, also, section 21, Railroad Law, *ante*.

LEGISLATURE MAY ALTER OR REDUCE FARE.

§ 38. The legislature may, when any such railroad shall be open for use, from time to time, alter or reduce the rate of freight, fare or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with such profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the board of railroad commissioners, they shall ascertain that the net income derived by the corporation from all sources, for the year then last past, shall have exceeded an annual income of ten per cent. upon the capital of the corporation actually expended.

PENALTY FOR EXCESSIVE FARE

§ 39. Any railroad corporation, which shall ask or receive more than the lawful rate of fare, unless such overcharge was made through inadvertence or mistake, not amounting to gross negligence, shall forfeit fifty dollars, to be recovered with the excess so received by the party paying the same; but no action can be maintained therefor, unless commenced within one year after the cause of action accrued.

PASSENGER REFUSING TO PAY FARE MAY BE EJECTED.

§ 40. If any passenger shall refuse to pay his fare the conductor of the train, and the servants of the corporation, may put him and his

baggage out of the cars, using no unnecessary force, on stopping the train, at any usual stopping place, or near any dwelling-house, as the conductor may elect.

SLEEPING AND PARLOR CARS.

§ 41. Any railroad corporation may contract with any person, association or corporation for the hauling by the special or regular trains of said railroad corporation, the parlor, drawing-room or sleeping car or cars of such person, association or corporation, in which extra accommodations shall be furnished, for which said person, association or corporation furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein a reasonable compensation for such extra accommodation, in addition to the fare and charges now allowed by law for the carriage and transportation of passengers and property in the ordinary cars of said railroad corporation. But said railroad corporation so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the traveling public. (*Thus amended by chap. 676, Laws 1892.*)

PERSONS EMPLOYED AS DRIVERS, CONDUCTORS, MOTORMEN OR GRIPMEN.

§ 42. Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor. (*Thus amended by chap. 513, Laws 1895.*)

See section 420, Penal Code, *post.* Also, section 41, Liquor Tax Law, *post.* Also, Labor Law, *post.*

CONDUCTORS AND EMPLOYEES MUST WEAR BADGES.

§ 43. Every conductor and employe of a railroad corporation employed in a passenger train, or at stations for passengers, shall

wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employe without such badge shall meddle or interfere with any passenger, his baggage or property. (*Thus amended by chap. 676, Laws 1892.*)

See section 425, Penal Code, *post*.

CHECKS FOR BAGGAGE

§ 44. A check, made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and furnished with a convenient strap or other appendage for attaching to baggage, shall be affixed to every piece or parcel of baggage when taken for transportation for a passenger by the agent or employe of such corporation, if there is a handle, loop or fixture therefor upon the piece or parcel of baggage, and a duplicate thereof given to the passenger or person delivering the same to him. If such check be refused on demand the corporation shall pay to the passenger the sum of ten dollars, and no fare shall be collected or received from him; and if he shall have paid his fare it shall be refunded to him by the conductor in charge of the train. Such baggage shall be delivered, without unnecessary delay, to the passenger or any person acting in his behalf at the place to which it was to be transported, where the cars usually stop, or at any other regular intermediate stopping place, upon notice to the baggage-master in charge of baggage on the train, of not less than thirty minutes, upon presentation of such duplicate check to the officer or agent of the railroad corporation, or of any corporation, over any portion of whose road it was transported. Bicycles are hereby declared to be and be deemed baggage for the purposes of this article and shall be transported as baggage for passengers by railroad corporations and subject to the same liabilities, and no such passenger shall be required to crate, cover or otherwise protect any such bicycle; provided, however, that a railroad corporation shall not be required to transport, under the provisions of this act, more than one bicycle for a single person. (*Thus amended by chap. 333, Laws of 1896.*)

PENALTIES FOR INJURIES TO BAGGAGE

§ 45. Any person, whose duty it is for or on behalf of the common carrier to handle, remove, or care for the baggage of passengers, who shall recklessly or wilfully injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or

storing the same, or any railroad corporation, which shall knowingly keep in its employment any such willful or reckless person, or which shall permit any injury or destruction of such property, through failure to provide sufficient help and facilities for the handling thereof, shall pay to the party injured thereby the sum of fifty dollars, in addition to such damages.

UNCLAIMED FREIGHT AND BAGGAGE.

§ 46. Every railroad or other transportation corporation, doing business in this state, which shall have unclaimed freight or baggage, not live stock or perishable, in its possession for the period of sixty days, may deliver the same to any warehouse company, or person or persons engaged in the warehouse business, within this state, and take a warehouse receipt for the storage thereof. Upon such delivery and upon taking such warehouse receipt, every such railroad or other transportation corporation shall be discharged of all liability in respect to any such unclaimed freight or baggage from and after such delivery. At any time within two years after such delivery, such railroad or other transportation corporation shall surrender and transfer such warehouse receipt to the owner of any such unclaimed freight or baggage upon demand, and upon payment of all charges and expenses for transportation and storage then due, if any, to any such railroad or other transportation corporation. In case any such railroad or other transportation company shall have had unclaimed freight or baggage, not live stock or perishable, in its possession for a period of one year and shall not have delivered the same to a warehouse company or person or persons engaged in the warehouse business as above provided, then such railroad or other transportation company may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation, handling and storage of such unclaimed freight or baggage, and the expenses of advertising and sale thereof; but no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale, to be published weekly in a newspaper published in or nearest the town or city to which such unclaimed freight or baggage was consigned, or at which it was directed to be left, and also at the town or city where such sale is to take place; and said notice shall contain a general description of such unclaimed freight or

baggage, the name of the shipper thereof, if known, and a statement of the consignment thereof, whether to a designated consignee or to order, if known, or the place, at which the same was to be left, as near as may be; and the expenses incurred for advertising shall be a lien upon such unclaimed freight or baggage in a ratable proportion, according to the value of each article, package or parcel, if more than one. Such railroad or other transportation company shall make an entry of the balance of the proceeds of the sale, if any, of the unclaimed freight or baggage consigned to the same consignee or covered by each consignment, as near as can be ascertained, and at any time within five years thereafter, shall refund any surplus so retained to the owners of such unclaimed freight or baggage, his personal representatives or assigns, on satisfactory proof of such ownership. In case such balance shall not be claimed by the rightful owner within five years after the sale as above specified, then it shall be paid to the county treasurer, for the use of the county poor of the county where the sale is made.

Unclaimed live stock and perishable freight or baggage may be sold by any such railroad or other transportation corporation without notice, as soon as it can be, upon the best terms that can be obtained. All moneys arising from the sale of any such unclaimed live stock, perishable freight or baggage, after deducting therefrom all charges and expenses for transportation, storage, keeping, commissions for selling the property, and any amount previously paid for its loss or non-delivery, shall be deposited by the corporation making such sale with a report thereof, and proof that the property was live stock or perishable freight, with the comptroller for the benefit of the general fund of the state, and shall be held by him in trust for reclamation by the person or persons entitled to receive the same. (*Thus amended by chap. 582, Laws 1899.*)

TICKETS AND CHECKS FOR CONNECTING STEAMBOATS.

§ 47. The proprietors of any line of steamboats, terminating or stopping for passengers at any place where a railroad corporation has a depot or station, may furnish tickets and baggage checks to such corporation for the use of passengers, traveling over its road, who desire to connect with such line of boats at any such place, and the railroad corporation shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to the proprietor of such line of boats all moneys received by it for the sale of such tickets; and any such railroad corporation may furnish tickets and checks for bag-

gage to the proprietors of any such line of steamboats for the use of passengers traveling over any part of such line of boats, who desire to connect with the railroad of any such corporation at any such place, and such proprietors shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to such corporation all moneys received by them for the sale of such tickets. No greater rate of fare shall be charged by any railroad corporation to any such passenger for the distance traveled over its road than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such line of boats, and no greater rate of fare shall be charged by the proprietors of any such steamboat line to any such passenger for the distance traveled over its line, than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such railroad. Any additional cost of transfer of a passenger or his baggage from railroad depot or station to steamboat landing, or from steamboat landing to depot or station, shall be borne by the passenger or the proprietors of the steamboat line or the railroad corporation at whose instance or for whose benefit such transfer is made. Every railroad corporation and the proprietors of any line of steamboats, their agents or servants, who shall neglect or refuse to sell tickets or furnish a check to any passenger applying for the same, when the same shall have been furnished to them, shall pay to such passenger the sum of ten dollars and no fare or toll shall be collected from him for riding over such road or upon such boats, as the case may be; and in addition thereto any railroad corporation so neglecting or refusing, shall pay the proprietors of such line of boats two hundred and fifty dollars for each day it shall so neglect or refuse; and the proprietors of any such line of boats so neglecting or refusing, shall pay to such railroad corporation a like sum for each day they shall so neglect or refuse.

Every such railroad corporation shall also receive any freight which shall be delivered at any station on the line of its road, marked to go by way of boat or any particular line of boats from any station on its road at which such boat or line of boats terminates or stops for freight, and shall transport such freight with all convenient speed to such station, and on its arrival there cause the proprietors of the steamboat line by which it is directed to be sent, or their agent, to be notified of such arrival, and shall deliver such freight to such proprietors or their agent with the bill of charges thereon due such railroad corporation, for the payment of which charges the proprietor or

proprietors of such steamboat line shall be responsible, and shall account for and pay the same to such railroad corporation on demand. The railroad corporation shall not charge for the transportation of such freight over its road any greater sum pro rata than it charges for carrying the same kind of freight the same distance over its road, if it was to be transported by such corporation by rail to its final destination or to the terminus of the road of such corporation in case it terminates before such final destination is reached. Any freight delivered by the proprietors of any steamboat or steamboat line, or their authorized agent, at any station, at a place where such steamboat or steamboats have a landing, to any such railroad corporation for transportation over its road or any part thereof, shall be transported by such corporation to its place of destination for the same price pro rata which would be charged for the same kind of freight the same distance over its road, if the same had been taken on at the point of first shipment by boat, or at the terminus of the road of such corporation, in case it does not extend to the point of first shipment.

RIGHTS AND LIABILITIES AS COMMON CARRIERS

§ 48. Every railroad corporation doing business in this state shall be a common carrier. Any one of two or more corporations owning or operating connecting roads, within this state, or partly within and partly without the state, shall be liable as a common carrier, for the transportation of passengers or delivery of freight received by it to be transported by it to any place on the line of a connecting road; and if it shall become liable to pay any sum by reason of neglect or misconduct of any other corporation it may collect the same of the corporation by reason of whose neglect or misconduct it became liable. (*Thus amended by chap. 676, Laws 1892.*)

SWITCHES; WARNING SIGNALS; GUARD-POSTS; AUTOMATIC COUPLERS; AUTOMATIC OR OTHER SAFETY BRAKE; TOOLS IN PASSENGER CAR; WATER.

§ 49. It shall be the duty of every railroad corporation operating its road by steam :

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenze, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced, or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employes on top of cars from injury.

3. To place guard-posts in the prolongation of the line of bridge trusses so that in case of derailment, the posts, and not the bridge trusses, shall receive the blow of the derailed locomotive or car.

4. To use upon every new freight car, built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

5. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

6. To provide each closed car in use in every passenger train owned or regularly used upon a railroad, with one set of tools, consisting of an axe, sledge hammer, crowbar and hand saw and such other or additional tools as the board of railroad commissioners may require, to be placed where directed by the board of railroad commissioners. (*Thus amended by chap. 521, Laws of 1898*).

7. To provide, in each passenger car, where the line of road shall exceed forty continuous miles in length, a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and to keep such receptacle, while the car is in use, constantly supplied with cool water.

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision seven shall be liable to a penalty of one hundred dollars for each offense and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the seventh subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

As to automatic brakes and couplers, see, also, chaps. 543 and 544, Laws 1893, *post*. See section 424, Penal Code, *post*.

RAILROAD COMMISSIONERS MAY APPROVE OTHER SAFEGUARDS.

§ 50. The board of railroad commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the board, in place of any safeguard or device required by this article which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be

incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

USE OF STOVES OR FURNACES PROHIBITED.

§ 51. It shall not be lawful for any railroad corporation, operating a steam railroad in this state, of the length of fifty miles or more, excepting foreign railroad corporations, incorporated without the jurisdiction of the United States, running cars upon tracks in this state for a distance of less than thirty miles, to heat its passenger cars, on other than mixed trains, excepting dining-room cars, by any stove or furnace kept inside the car, or suspended therefrom, unless in case of accident or other emergency, when it may temporarily use such stove or furnace with necessary fuel, in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained to be used only when the car is standing still, and no stove or furnace shall be used in a dining-room car, except for cooking purposes, and of pattern and kind to be approved by the railroad commissioners. This section shall not be held to affect or interfere with the use by the commissioners of fisheries of this or other states, or of the United States, of stoves for heating or cooking or boilers for hatching operations in their fish car or cars. Any person or corporation, violating any of the provisions of this section, shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such violation shall continue. (*Thus amended by chap. 299, Laws of 1896.*)

See section 423, Penal Code, *post*.

CANADA THISTLES TO BE CUT.

§ 52. Every railroad corporation doing business within this state, shall cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by it, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. If any such corporation shall neglect to cause the same to be so cut down, any person may cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands the same shall be so cut, at the rate of three dollars per day for the time occupied in cutting.

RIDING ON PLATFORM; WALKING ALONG TRACK

§ 53. No railroad corporation shall be liable for any injury to any passenger while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the corpora-

tion, posted up at the time in a conspicuous place inside of the passenger cars, then in the train, if there shall be at the time sufficient room for the proper accommodation of the passenger inside such passenger cars. No person other than those connected with or employed upon the railroad shall walk upon or along its track or tracks, except where the same shall be laid across or along streets or highways, in which case he shall not walk upon the track unless necessary to cross the same. Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences and guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the state the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATIONS MAY ESTABLISH FERRIES.

§ 54. Any steam railroad corporation, incorporated under the laws of this state, with a terminus in the harbor of New York, may purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, but this section shall not be construed to affect the rights of the cities of New York and Brooklyn. (*Thus amended by chap. 676, Laws 1892.*)

CERTAIN RAILROADS MAY CEASE OPERATION IN WINTER.

§ 55. The directors of any railroad corporation operating a railroad, constructed and used principally for transporting lumber or ores, during the summer months, or for summer travel, may, by a resolution duly passed at a meeting thereof, apply to the board of railroad commissioners for permission to cease the operation of their road during the winter season for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the reopening thereof; and such board may, in their discretion, make an order granting the application wholly or in part, and thereupon such railroad corporation shall be relieved of the duty of operating its road during the period specified in the order. A copy of such order shall be posted in all the depots and at the termini of such railroad, and published in every newspaper in each town in any part of which such road shall be constructed at least four weeks prior to the date of such suspension.

See section 21, Railroad Law, *ante*.

MAILS.

§ 56. Any railroad corporation shall, when applied to by the postmaster-general, convey the mails of the United States on its road,

and in case such corporation and the postmaster-general shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, the board of railroad commissioners shall fix the prices, terms and conditions therefor, after giving the corporation a reasonable opportunity to be heard. Such price shall not be less for carrying such mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. If the postmaster-general shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as herein provided.

Every railroad corporation refusing or neglecting to comply with any provision of this section shall forfeit to the people of the state one hundred dollars for every day such neglect or refusal continues. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATIONS MUST MAKE ANNUAL REPORT.

§ 57. Every person or corporation owning, leasing, operating or in possession of a railroad, wholly or partly, in this state, shall make an annual report to the board of railroad commissioners of its operations for the year ending with June thirtieth, and of its condition on that day, which shall be verified by the oaths of the president, or treasurer, and the general manager, or acting superintendent, and shall be filed in the office of such board on or before September first in each year. Every such person or corporation shall make quarterly and further reports to such board in the form and within the time prescribed by it. Such board may in its discretion change the date of the annual report and of filing the same, but the length of time between the date of the annual report and the filing of the same shall not be less than herein prescribed. Any person or railroad corporation which shall neglect to make any such report, or which shall fail to correct any such report within ten days after notice by the board of railroad commissioners, shall be liable to a penalty of two hundred and fifty dollars and an additional penalty of twenty-five dollars for each day after September first on which it shall neglect to file the same, to be sued for in the name of the people of the state of New York, for their use.

The board of railroad commissioners may extend the time herein limited for cause shown. (*Thus amended by chap. 676, Laws 1892.*)

See section 158, Railroad Law, *post*. Also, sections 416, 602 and 611, Penal Code, *post*.

WHEN CONDUCTORS AND BRAKEMEN MAY BE POLICEMEN.

§ 58. The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation, or of any steamboat company, such additional policemen, designated by it, as he may deem proper, at any station, or upon any steamboat navigating the waters of this state, who shall have the same powers, but not more than one at any one station, or upon such steamboat. Every such policeman shall within fifteen days after receiving his commission and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state, who shall thereupon transmit to the county clerk of each county in which such policeman is authorized to act, a certificate, under his hand and official seal, setting forth the appointment and the filing of the commission and oath, which certificate shall be filed by the county clerk. Every such policeman shall when on duty wear a metallic shield, with the words "railway police" or "steamboat police" as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman they may file notice to that effect in the several offices in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end. (*Thus amended by chap. 539, Laws 1899.*)

REQUISITES TO EXERCISE OF POWERS OF FUTURE RAILROAD CORPORATIONS.

§ 59. No railroad corporation hereafter formed under the laws of this state shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the board of railroad commissioners; nor until the board of railroad commissioners shall certify that the foregoing conditions have been complied with, and

also that public convenience and a necessity require the construction of said railroad as proposed in said articles of association. The foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If certificate is refused no further proceedings shall be had before said board, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate the board shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal to grant such certificate the board shall certify a copy of all maps and papers on file in its office and of the findings of the board when so requested by the directors aforesaid. Such directors may thereupon present the same to a general term of the supreme court of the department within which said road is proposed in whole or in part to be constructed, and said general term shall have power, in its discretion, to order said board, for reasons stated, to issue said certificate, and it shall be issued accordingly. Such certificate shall be filed in the office of the secretary of state and a copy thereof, certified to be a copy by the secretary of state, or his deputy, shall be evidence of the fact therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or water of any person, but subject to the responsibility for all damages which shall be done thereto. (*Thus amended by chap. 545, Laws of 1895.*)

**RAILROAD COMMISSIONERS MAY CERTIFY PART OF THE
ROUTE OF A STREET SURFACE RAILROAD. POWER TO
REVOKE CERTIFICATES. STREET SURFACE RAILROAD
EXTENSION.**

§ 59a. Whenever application is made by a street surface railroad company for a certificate of public convenience and a necessity as required by the provisions of the foregoing section, and it shall appear to the board of railroad commissioners, after examination of the proposed route of the applicant company that public convenience and a necessity do not require the construction of said railroad as proposed in its articles of association but do require the construction of a part of the said railroad, the board of railroad commissioners may issue its certificate for the construction of such part of the said railroad as seems to it to be required by public convenience and a necessity. In case any railroad company which shall hereafter obtain the certificate of the board of railroad commissioners that public convenience and a necessity require the construction of the whole or

a part of the said railroad shall fail to begin such construction within two years from the date of the issuing of said certificate, the board of railroad commissioners may inquire into the reason for such failure and the said board may revoke said certificate if it shall appear to it to be in the public interest so to do. (*This section added Railroad Law by chap. 643, Laws of 1898.*)

§ 59-b. Whenever it shall be made to appear to the board of railroad commissioners that any steam railroad corporation, which has obtained from it a certificate under section fifty-nine of the railroad law since eighteen hundred and ninety-four and whose road is less than ten miles in length, and was to be built in the counties of Saratoga and Washington, shall not have completed its construction and put it in operation within three years after obtaining such certificates, the said board, on notice to such corporation, shall have the power to revoke the said certificate and consent and thereupon the corporate existence and power of such railroad corporation shall cease and determine. (*Added by chap. 597, Laws 1899.*)

GRADE CROSSING LAW, SECTIONS 60-69.

§ 60. All steam surface railroads hereafter built, except additional switches and sidings, must be so constructed as to avoid all public crossings at grade, whenever practicable so to do. Whenever application is made to the board of railroad commissioners, under section fifty-nine of the railroad law, there shall be filed with said board a map showing the streets, avenues and highways proposed to be crossed by the new construction, and the said board shall determine whether such crossing shall be under or over the proposed railroad, except where said board shall determine such method of crossing to be impracticable. Whenever an application is made under this section to determine the manner of crossing, the said board shall designate a time and place when and where a hearing will be given to such railroad company, and shall notify the municipal corporation having jurisdiction over such streets, avenues or highways proposed to be crossed by the new railroad. The said board shall also give public notice of such hearing in at least two newspapers, published in the locality affected by the application, and all persons owning land in the vicinity of the proposed crossing shall have the right to be heard. The decision of the said board rendered in any proceedings under this section shall be communicated, within twenty days after final hearing, to all parties to whom notice of the hearing in said proceedings was given, or who appeared at said hearing by counsel or in person. (*Added by chap. 754, Laws of 1897.*)

§ 61. When a new street, avenue or highway, or new portion of a street, avenue or highway shall hereafter be constructed across a steam surface railroad, other than pursuant to the provisions of section sixty-two of this act, such street, avenue or highway or portion

of such street, avenue or highway, shall pass over or under such railroad or at grade as the board of railroad commissioners shall direct. Notice of intention to lay out such street, avenue or highway, or new portion of a street, avenue or highway, across a steam surface railroad, shall be given to such railroad company by the municipal corporation at least fifteen days prior to the making of the order laying out such street, avenue or highway by service personally on the president or vice-president of the railroad corporation, or any general officer thereof. Such notice shall designate the time and place and when and where a hearing will be given to such railroad company, and such railroad company shall have the right to be heard before the authorities of such municipal corporation upon the question of the necessity of such street, avenue or highway. If the municipal corporation determines such street, avenue or highway to be necessary, it shall then apply to the board of railroad commissioners before any further proceedings are taken, to determine whether such street, avenue or highway shall pass over or under such railroad, or at grade, whereupon the said board of railroad commissioners shall appoint a time and place for hearing such application, and shall give such notice thereof, as they judge reasonable, not, however, less than ten days, to the railroad company whose railroad is to be crossed by such new street, avenue or highway, or new portion of a street, avenue or highway, to the municipal corporation and to the owners of land adjoining the railroad and that part of the street, avenue or highway to be opened or extended. The said board of railroad commissioners shall determine whether such street, avenue or highway, or new portion of a street, avenue or highway, shall be constructed over or under such railroad or at grade; and if said board determine that such street, avenue or highway shall be carried across such railroad above grade, then said board shall determine the height, the length and the material of the bridge or structure by means of which such street, avenue or highway shall be carried across such railroad, and the length, character and grades of the approaches thereto; and if said board shall determine that such street, avenue or highway shall be constructed or extended below the grade, said board shall determine the manner and method in which the same shall be so carried under, and the grade or grades thereof, and if said board shall determine that said street, avenue or highway shall be constructed or extended at grade, said board shall determine the manner and method in which the same shall be carried over said railroad at grade and what safeguards shall be maintained. The decision of the said board as to the manner and method of carrying such new street, avenue or highway, or new portion of a street, avenue or highway, across such railroad, shall be final, subject, however, to the right of appeal hereinafter given. The decision of said board rendered in any proceeding under this section shall be communicated within twenty days after

final hearing to all parties to whom notice of the hearing in such proceeding was given or who appeared at such hearing by counsel or in person. (*Thus amended by chap. 520, Laws of 1898.*)

§ 62. The mayor and common council of any city, the president and trustees of any village, the town board of any town within which a street, avenue or highway crosses or is crossed by a steam surface railroad at grade, or any steam surface railroad company, whose road crosses or is crossed by a street, avenue or highway at grade, may bring their petition, in writing, to the board of railroad commissioners, therein alleging that public safety requires an alteration in the manner of such crossing, its approaches, the method of crossing, the location of the highway or crossing and the diversion of the travel thereon to another highway or crossing, or if not practicable to change such crossing from grade or to close and discontinue the same, the opening of an additional crossing for the partial diversion of travel from the grade crossing, and praying that the same may be ordered; whereupon the said board of railroad commissioners shall appoint a time and place for hearing the petition, and shall give such personal notice thereof as they shall judge reasonable, of not less than ten days, however, to said petitioner, the railroad company, the municipality in which such crossings is situated, and to the owners of the lands adjoining such crossing and adjoining that part of the highway to be changed in grade or location, or the land to be opened for a new crossing, and shall cause notice of said hearing to be advertised in at least two newspapers published in the locality affected by the application; and after such notice of hearing the said board of railroad commissioners shall determine what alterations or changes, if any, shall be made. The decision of said board of railroad commissioners rendered in any proceeding under this section, shall be communicated within twenty days after final hearing, to all parties to whom notice of the hearing in said proceeding was given, or who appeared at said hearing by counsel or in person. Any person aggrieved by such decision, or by a decision made pursuant to sections sixty and sixty-one hereof, and who was a party to said proceeding, may within sixty days appeal therefrom to the appellate division of the supreme court in the department in which such grade crossing is situated and to the court of appeals, in the same manner and with like effect as is provided in the case of appeals from an order of the supreme court. (*Thus amended by chap. 359, Laws 1899.*)

§ 63. The municipal corporation in which the highway crossing is located, may, with the approval of the railroad company, acquire by purchase any lands, rights or easements necessary or required for the purpose of carrying out the provisions of sections sixty, sixty-one and sixty-two of this act, but if unable to do so shall acquire such lands, rights or easements by condemnation either

under the condemnation law, or under the provisions of the charter of such municipal corporation. The railroad company shall have notice of any such proceedings and the right to be heard therein. (*Thus amended by chap. 226, Laws 1899.*)

§ 64. When a highway crosses a railroad by an overhead bridge, the frame work of the bridge and its abutments shall be maintained and kept in repair by the railroad company, and the roadway thereover and the approaches thereto shall be maintained and kept in repair by the municipality in which the same are situated. When a highway passes under a railroad, the bridge and its abutments shall be maintained and kept in repair by the railroad company, and the subway and its approaches shall be maintained and kept in repair by the municipality in which the same are situated. (*Added by chap. 754, Laws of 1897.*)

§ 65. Whenever, under the provisions of section sixty of this act, new railroads are constructed across existing highways, the expense of crossing above or below the grade of the highway shall be paid entirely by the railroad corporations. Whenever under the provisions of section sixty-one of this act a new street, avenue or highway is constructed across an existing railroad, the railroad corporation shall pay one-half and the municipal corporation wherein such street, avenue or highway is located, shall pay the remaining one-half of the expense of making such crossing above or below grade; and whenever a change is made as to an existing crossing in accordance with the provisions of section sixty-two of this act, fifty per centum of the expense thereof shall be borne by the railroad corporation, twenty-five per centum by the municipal corporation, and twenty-five per centum by the state. Whenever, in carrying out the provisions of sections sixty-one or sixty-two of this act, two or more lines of steam surface railroad, owned and operated by different corporations, cross a highway at a point where a change in grade is made, each corporation shall pay such proportion of fifty per centum of the expense thereof as shall be determined by the board of railroad commissioners. In carrying out the provisions of sections sixty, sixty-one and sixty-two of this act the work shall be done by the railroad corporation or corporations affected thereby, subject to the supervision of and approval of the board of railroad commissioners, and in all cases, except where the entire expense is paid by the railroad corporation, the expense of construction shall be paid primarily by the railroad company, and the expense of acquiring additional lands, rights or easements, shall be paid primarily by the municipal corporation wherein such highway crossings are located.

Plans and specifications of all changes proposed under sections sixty-one and sixty-two of this act, and an estimate of the expense thereof shall be submitted to the board of railroad commissioners for their approval before the letting of any contract. In case the work is done by contract the proposals of contractors shall be submitted to the board of railroad commissioners, and if the board shall determine that the bids are excessive it shall have the power to require the submission of new proposals. The board of railroad commissioners may employ temporarily such experts and engineers as may be necessary to properly supervise any work that may be undertaken under sections sixty, sixty-one or sixty-two of this act, the expense thereof to be paid by the comptroller upon the requisition and certificate of the said board, said expense to be included in the cost of the particular change in grade on account of which it is incurred and finally apportioned in the manner provided in this section. Upon the completion of the work and its approval by the board of railroad commissioners an accounting shall be had between the railroad corporation and the municipal corporation, of the amounts expended by each with interest, and if it shall appear that the railroad corporation or the municipal corporation have expended more than their proportion of the expense of the crossing as herein provided, a settlement shall be forthwith made in accordance with the provisions of this section. All items of expenditure shall be verified under oath, and, in case of a dispute between the railroad corporation and the municipal corporation as to the amount expended, any judge of the supreme court in the judicial district in which the municipality is situated, may appoint a referee to take testimony as to the amount expended, and the confirmation of the report of the referee shall be final. In the event of the failure or refusal of the railroad corporation to pay its proportion of the expense, the same, with interest from the date of such accounting, may be levied and assessed upon the railroad corporation and collected in the same manner that taxes and assessments are now collected by the municipal corporation within which the work is done; and in the event of the failure or refusal of the municipal corporation to pay its proportion of the expense, suit may be instituted by the railroad corporation for the collection of the same with interest from the date of such accounting, or the railroad corporation may offset such amount with interest against any taxes levied or assessed against it or its property by such municipal corporation. The legislature shall annually appropriate out of any moneys not otherwise appropriated, the sum of one hundred thousand dollars for the purpose of paying the state's propor-

tion of the expense of a change in an existing grade crossing. If, in any year, any less sum than one hundred thousand dollars is expended by the state for the purpose aforesaid the balance remaining unexpended shall be applied to reduce the amount appropriated by the state in the next succeeding year, except that no such deduction shall be made in case there are outstanding and unadjusted obligations on account of a change in an existing grade crossing for a proportion of which the state is liable under the provisions of this section. In the event of the appropriation made by the state in any one year being insufficient to pay the state's proportion of the expense of any change that may be ordered the first payment from the appropriation of the succeeding year shall be on account of said change, and no payment shall be made on account of any subsequent change that may be ordered, nor shall any subsequent change be ordered until the obligation of the state on account of the first named change in grade has been fully discharged, unless the same shall be provided for by an additional appropriation to be made by the legislature. The state's proportion of the expense of changing any existing grade crossing shall be paid by the state treasurer on the warrant of the comptroller, to which shall be appended the certificate of the board of railroad commissioners to the effect that the work has been properly performed and a statement showing the situation of the crossing that has been changed, the total cost and the proportionate expense thereof, and the money shall be paid in whole or in part to the railroad corporation or to the municipal corporation as the board of railroad commissioners may direct, subject, however, to the rights of the respective parties as they appear from the accounting to be had as hereinbefore provided for. (*Thus amended by chap. 520, Laws of 1898.*)

§ 66. The railroad commissioners may, in the absense of any application therefor, when, in their opinion, public safety requires an alteration in an existing grade crossing, institute proceedings on their own motion for an alteration in such grade crossing, upon such notice as they shall deem reasonable, of not less than ten days, however, to the railroad company, the municipal corporation and the person or persons interested, and proceedings shall be conducted as provided in section sixty-two of this act. The changes in existing grade crossings authorized or required by the board of railroad commissioners in any one year shall be so distributed and apportioned over and among the railroads and the municipalities of the state as to produce such equality of burden upon them for their proportionate part of the expenses as herein provided for as the nature and cir-

cumstances of the cases before them will permit. (*Added by chap. 754, Laws 1897.*)

§ 67. It shall be the duty of the corporation, municipality or person or persons to whom the decisions or recommendations of the board of railroad commissioners are directed, as provided in sections sixty, sixty-one, sixty-two and sixty-six of this act to comply with such decisions and recommendations, and in case of their failure so to do, the board shall present the facts in the case to the attorney-general, who shall thereupon take proceedings to compel obedience to the decisions and recommendations of the board of railroad commissioners. The supreme court at a special term shall have the power in all cases of such decisions and recommendations by the board of railroad commissioners to compel compliance therewith by mandamus, subject to appeal to the appellate division of the supreme court and the court of appeals, in the same manner, and with like effect, as is provided in case of appeals from any order of the supreme court. (*Added by chap. 754, Laws 1897.*)

§ 67-a. Whenever in carrying out any of the provisions of sections sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six or sixty-seven of this act, any municipality shall incur any expense or become liable for the payment of any moneys, it shall be lawful for such municipality to temporarily borrow such moneys on the notes or certificates of such municipality, and when the whole amount of such expense shall be ascertained it shall be lawful for such municipality to include such amount in its next annual tax levy for municipal purposes, or in the discretion of the common council in case of a city, the board of trustees in case of a village or the town board in case of a town, to borrow the same on the credit of the municipality, and to issue bonds therefor, which bonds shall be signed by the mayor and clerk in case of a city, the president and clerk in case of a village and the town board in case of a town, and still be in such form and for such sums and be payable at such times and places with interest not exceeding four per centum per annum, as the common council, in case of a city, the board of trustees in case of a village, and the town board in case of a town, shall direct. (*Added by chap. 541, Laws 1899.*)

§ 68. All street surface railroads hereafter constructed across a steam railroad shall be above, below or at grade of such steam railroad as the board of railroad commissioners shall determine, and such board shall in such determination fix the proportion of expense of such crossing to be paid by the street surface railroad. (*Added by chap. 754, Laws 1897.*)

§ 69. The provisions of this act shall also apply to all existing or future steam surface railroads, on which, after the passage of this act, electricity or some other agency than steam shall be substituted as a motive power. (*Added by chap. 754, Laws 1897.*)

CHAP. 754, LAWS OF 1897.

AN ACT to amend railroad law, and the act amendatory thereof relative to grade crossings.

SECTION 1. Article two of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, entitled "An act in relation to railroads, constituting chapter thirty-nine of the general laws," known as the railroad law, as amended by chapter six hundred and seventy-six of the laws of eighteen hundred and ninety-two, is hereby amended by adding thereto the following sections :

* * * * *

(See Sections 60-69 Railroad Law, above.)

§ 2. None of the provisions of this act shall apply to crossings in the city of Buffalo under the jurisdiction of the grade crossing commissioners of that city, nor shall they apply to the University avenue or Brown street crossing, in the city of Rochester.

§ 3. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 4. This act shall take effect the first day of July, eighteen hundred and ninety-seven.

ARTICLE III.

CONSOLIDATION, LEASE, SALE AND REORGANIZATION.

SECTION 70. Consolidation of corporations owning continuous lines.

71. Conditions.

1. Joint agreement; amount of capital stock.

2. Agreement to be submitted to meeting of stockholders.

72. New corporation.

73. Creditors' rights not to be impaired.

74. Assessment of property of new corporation.

75. Stock of municipal corporation, how represented.

76. Foreclosure of mortgages made by consolidated railroads partly in the state.

77. Powers of corporation of other states.

78. Lease of road.

79. Lessees of railroad may acquire stock therein.

SECTION 80. Consolidation and lease of parallel lines prohibited.

- 81. Mortgagees may purchase at foreclosure sale.
- 82. Certificates of stock may be issued after foreclosure in certain cases.
- 83. Liabilities of reorganized railroad corporations.
- 84. Application of "this act" to consolidated companies.

CONSOLIDATION OF CORPORATIONS OWNING CONTINUOUS LINES.

§ 70. Any railroad or other corporation, organized under the laws of this state, or of this state and any other state, and owning or operating a railroad, bridge or tunnel, either wholly within or partly within and partly without the state, or whose lines or routes of road have been located but not constructed, may merge and consolidate its capital stock, franchises, and property with the capital stock, franchises and property of any other railroad, tunnel or bridge corporation or corporations organized under the laws of this state or of this state and any other state, or under the laws of any other state or states, whenever the two or more railroads of the companies or corporations so to be consolidated, tunnels, bridges or branches or any part thereof, or the line or routes of their road, if not constructed, shall or may form a continuous or connected line of railroad with each other or by means of any intervening railroad bridge, tunnel or ferry and any such consolidated corporation may thereupon construct or finish the construction of such continuous line of railroad, if not previously constructed, and operate the same, subject to all provisions of laws applicable to such railroad corporations. Where the road to be operated is in whole or in part a tunnel or subsurface road, authorized by section 16 of this chapter, its consolidation with another road or roads under the provisions of this section shall not prevent any connecting railroad from having equal rights of transit for its passengers and freight through or over the tunnel or bridge of any such road, upon the same equitable terms, nor shall such consolidation be made where such tunnel or subsurface road exceeds five miles in length. (*Thus amended by chap. 676, Laws 1892.*)

CONDITIONS.

§ 71. Such consolidation shall be made in the following manner:

JOINT AGREEMENT; AMOUNT OF CAPITAL STOCK.

1. The directors of the corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each cor-

poration, for the consolidation of such corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each corporation into that of the new corporation, and how and when the directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of such corporations. But in no case shall the capital stock of the corporation formed by such consolidation exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

***AGREEMENT TO BE SUBMITTED TO MEETING OF STOCK-HOLDERS.**

2. If stockholders owning two-thirds of all the stock of each of such corporations shall, by a consent in writing, acknowledged as are deeds entitled to be recorded and indorsed upon said lease or agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such corporation, and the original or a certified copy thereof shall be filed as hereinafter provided. If such agreement shall not be consented to in writing, by holders of two-thirds of the stock of either of such corporations as hereinbefore provided, such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof called separately for the purpose of taking the same into consideration. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by each corporation to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the

votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof shall be filed in the office of the secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. (*Thus amended by chap. 676, Laws 1892.*)

NEW CORPORATION.

§ 72. Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by

poration, for the consolidation of such corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each corporation into that of the new corporation, and how and when the directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of such corporations. But in no case shall the capital stock of the corporation formed by such consolidation exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

***AGREEMENT TO BE SUBMITTED TO MEETING OF STOCK-HOLDERS.**

2. If stockholders owning two-thirds of all the stock of each of such corporations shall, by a consent in writing, acknowledged as are deeds entitled to be recorded and indorsed upon said lease or agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such corporation, and the original or a certified copy thereof shall be filed as hereinafter provided. If such agreement shall not be consented to in writing, by holders of two-thirds of the stock of either of such corporations as hereinbefore provided, such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof called separately for the purpose of taking the same into consideration. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by each corporation to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the

votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof shall be filed in the office of the secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. (*Thus amended by chap. 676, Laws 1892.*)

NEW CORPORATION.

§ 72. Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by

the laws of the state under which either of said companies or corporations so consolidated was organized, and secure the same by a mortgage upon its real or personal property, franchises, rights and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of either of said states. Nothing in this act contained shall authorize the execution of any such mortgage without the consent of the stockholders as now required by the laws of this state, nor compel any bondholder to accept payment in whole or in part of any bond or bonds held by him or to surrender the same before they shall become due. (*Thus amended by chap. 362, Laws 1891.*)

CREDITORS' RIGHTS NOT TO BE IMPAIRED.

§ 73. The rights of all creditors of, and all liens upon the property of, either of such corporations, parties to such agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which either of such corporations is a party shall abate or be discontinued by such agreement and act of consolidation, but may be conducted to final judgment in the names of such corporations, or such new corporation may be, by order of the court, on motion substituted as a party.

ASSESSMENT OF PROPERTY OF NEW CORPORATION.

§ 74. The real estate of such new corporations, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in like manner as the real estate of other railroad corporations is or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation, shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

STOCKS OF MUNICIPAL CORPORATIONS, HOW REPRESENTED.

§ 75. At any meeting of the stockholders of any railroad corporation to consider any agreement or proposition to consolidate or lease, the commissioners or other officers of any municipal corporation holding or having charge of any of the capital stock of such railroad corporation shall represent such municipal corporation, and may act

and vote in person or by proxy on all matters relating to such consolidation or lease in the same manner as individual stockholders. (*Thus amended by chap. 546, Laws of 1893.*)

**FORECLOSURE OF MORTGAGES MADE BY (CONSOLIDATED)
RAILROADS PARTLY IN THE STATE.**

§ 76. Whenever a railroad corporation of this or of any other state or states whose line of road lies partly in this state and partly in another state or states, shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the state or states, or by a court of the United States sitting within the state or states in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the supreme court of this state or by the circuit court of the United States in the judicial district in which some part of such line of road is situated, such sale shall operate to pass title to the purchaser, of that part of the line of railroad lying in this state, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had, had been made by a court of competent jurisdiction of this state. Such judgment or decree and sale may be so ordered, adjudged, decreed or confirmed in any action or proceeding heretofore or hereafter brought in the supreme court, or in a court of the United States sitting in this state, for the foreclosure of such mortgage, or in aid of an action for that purpose in such other state or states, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line of road or other property sold situate in this state, and for such costs, expenses, and charges which may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be appointed by such court of competent jurisdiction of the state in which the greater part of the line of railroad is situated, or by a court of the United States sitting in such other state, such receiver may perform, within this state, the duties of his office not inconsistent with the laws of this state, and may sue and be sued in the courts of this state. (*Thus amended by chap. 356, Laws of 1896.*)

POWERS OF CORPORATIONS ORGANIZED TO ACQUIRE AND OPERATE RAILROADS PARTLY IN THE STATE

§ 77. A railroad corporation created under the laws of the state or states in which the greater part of the line of its railroad may be situated, or a railroad corporation created under the railroad law, or under article one of the stock corporation law in this state, for the purpose of taking title to, and operating, the line of road as so sold, under a judgment or decree of a court of this state, or of a court of the United States sitting in this state, for the foreclosure of a mortgage, with its franchises and appurtenances, may hold, possess and operate not only those parts of the railroad lying in other states, but also that part of the line of such railroad lying in this state, and shall be subject to the duties and liabilities to which such corporation was, by the laws of this state, subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this state, and the provisions of the stock corporation law concerning reorganization of corporations shall apply to, and in respect of, every such successor railroad corporation. An exemplified copy of the certificate or certificates of incorporation, under and by virtue of which any such corporation is created in any other state, and a certified copy of the judgment or decree of any court sitting in any other state, under which said railroad shall have been sold, and a certified copy of the order or judgment or decree of confirmation and approval required by the preceding section, or of the order, judgment or decree of the court of this state, or of the United States in this state, which decreed the sale, confirming the same, shall be filed in the office of the secretary of state for this state, and in the office of the county clerk of the county where its principal business office in this state is or shall be located. (*Thus amended by chap. 356, Laws of 1896.*)

§ 3 of chap. 356, Laws of 1896. This act shall take effect immediately, and shall apply in respect of decrees, foreclosures, sales, confirmations, reorganizations and incorporations, whether heretofore or hereafter made, provided, however, that nothing in this act shall affect any action or proceeding pending in any court, on or before the first day of April, eighteen hundred and ninety-six, to establish the invalidity of any foreclosure or reorganization theretofore had, or to enforce any judgment or claim arising before such foreclosure or reorganization.

LEASE OF ROAD.

§ 78. Any railroad corporation or any corporation owning or operating any railroad or railroad route within this state may contract with any other such corporation for the use of their respective roads or routes, or any part thereof, and thereafter use the same in such manner and for such time as may be prescribed in such contract. Such contract may provide for the exchange or guaranty of the stock and bonds of either of such corporations by the other and shall be executed by the contracting corporations under the corporate seal of each corporation, and if such contract shall be a lease of any such road and for a longer period than one year, such contract shall not be binding or valid unless approved by the votes of stockholders owning at least two thirds of the stock of each corporation which is represented and voted upon in person or by proxy at a meeting, called separately for that purpose upon a notice stating

the time, place and object of the meeting, served at least thirty days previously upon each stockholder personally, or mailed to him at his post-office address, and also published at least once a week, for four weeks successively, in some newspaper printed in the city, town or county where such corporation has its principal office, and there shall be indorsed upon the contract the certificate of the secretaries of the respective corporations under the seals thereof, to the effect that the same has been approved by such votes of the stockholders, and the contract shall be executed in duplicate and filed in the offices where the certificates of incorporation of the contracting corporations are filed. The road of a corporation cannot be used under any such contract in a manner inconsistent with the provisions of law applicable to its use by the corporation owning the same at the time of the execution of the contract. Such contract shall be executed by the corporations, parties thereto, and proved and acknowledged in such manner as to entitle the same to be recorded in the office of the clerk or register of each county through or into which the road so to be used shall run. Nothing in this section shall apply to any lease in existence prior to May first, eighteen hundred and ninety-one. (*Thus amended by chap. 433, Laws 1893.*)

LESSEES OF RAILROAD MAY ACQUIRE STOCK THEREIN.

§ 79. Any railroad corporation created by the laws of this state, or its successors, being the lessee of the road of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become ex-officio the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of such capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by

the corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the corporation, to whom such surrender or transfer of such stock shall have been made, and in the corporate name of such corporation. Where stock shall have been so surrendered or transferred, the existing liabilities of the corporation, and the rights of the creditors and of any stockholder not surrendering or transferring his stock, shall not be affected thereby.

CONSOLIDATION AND LEASE OF PARALLEL LINES PROHIBITED.

§ 80. No railroad corporation or corporations owning or operating railroads whose roads run on parallel or competing lines, except street surface railroad corporations, shall merge or consolidate, or enter into any contract for the use of their respective roads, or lease the same, the one to the other, unless the board of railroad commissioners of the state or a majority of such board shall consent thereto. (*Thus amended by chap. 676, Laws 1892.*)

MORTGAGEE MAY PURCHASE AT FORECLOSURE SALE

§ 81. Any mortgagee of the property and franchises of any railroad corporation may become the purchaser of the same at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and hold and use the same, with all the rights and privileges belonging thereto or connected therewith for the period of six months, and convey the same to any railroad corporation.

CERTIFICATES OF STOCK MAY BE ISSUED AFTER FORECLOSURE IN CERTAIN CASES.

§ 82. If any person or corporation shall be entitled to certificates of stock subscribed to and paid for in any railroad corporation whose property and franchises have been sold under mortgage foreclosure, and such certificates have not been issued before foreclosure, the officers of the corporation shall, at any time within six months after the foreclosure sale issue and deliver to the person or corporation entitled thereto, upon demand, such certificates of stock, which shall have all the force and effect and confer upon the holder all the rights which he would have had if such certificates of stock had been issued at the time of the payment of the subscription thereto.

LIABILITIES OF REORGANIZED RAILROAD CORPORATIONS.

§ 83. A railroad corporation, reorganized under the provisions of law, relating to the formation of new or reorganized corporations upon the sale of their property or franchise, shall not be compelled or required to extend its road beyond the portion thereof constructed, at the time the new or reorganized corporation acquired title to such railroad property and franchise, provided the board of railroad commissioners of the state shall certify that in their opinion the public interests under all the circumstances do not require such extension. If such board shall so certify and shall file in their office such certificate, which certificate shall be irreversible by such board, such corporation shall not be deemed to have incurred any obligation so to extend its road and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. This section shall not authorize the abandonment of any portion of a railroad which has been constructed and operated, or apply to Kings county.

APPLICATION OF "THIS ACT" TO CONSOLIDATED COMPANIES.

§ 84. All the provisions contained in the several sections of this act shall extend, apply to and cover the consolidation, lease, sale or reorganization of any railroad or other corporation heretofore or hereafter organized, under the laws of this state, and any other state or country, to build, lease, buy, sell, maintain or operate any of the lines or routes of railroads, tunnels, bridges, ferries or branches or any part thereof mentioned in this article, and any similar lines or routes of railroad, tunnels, bridges, ferries or any part thereof, constructed or to be located and constructed in any foreign country. (*This section added by chap. 921, Laws of 1895.*)

ARTICLE IV.**STREET SURFACE RAILROADS.**

SECTION 90. Street surface railroads; general provision.

91. Consent of property owners and local authorities.

92. Consent of local authorities; how procured.

93. Condition upon which consent shall be given; sale of franchise at public auction.

94. Proceedings if property owners do not consent.

95. Percentage of gross receipts to be paid in cities or villages; report of officers.

- SECTION 96.** Extension of route over rivers ; terminus in other counties ; when property owners withhold consent ; supreme court may appoint commissioners.
- 97. Use of tracks of other roads.
 - 98. Repair of streets ; rate of speed ; removal of ice and snow.
 - 99. Within what time road to be built.
 - 100. Motive power.
 - 101. Rate of fare.
 - 102. Construction of road in streets where other road is built.
 - 103. Abandonment of part of route.
 - 104. Contracting corporations to carry for one fare ; penalty.
 - 105. Effect of dissolution of charter as to consents.
 - 106. Corporate rights saved in case of failure to complete road ; right to operate branches ; conditions ; former consent ratified ; limitations.
 - 107. When sand may be used on tracks.
 - 108. Road not to be constructed upon grounds occupied by public buildings or in public parks.
 - 109. Center-bearing rails prohibited.
 - 110. Right to cross bridge substituted for bridge crossed for five years.

STREET SURFACE RAILROADS ; GENERAL PROVISIONS.

§ 90. The provisions of this article shall apply to every corporation which, under the provisions thereof, or of any other law, has constructed or shall construct or operate, or has been or shall be organized to construct or operate, a street surface railroad, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons and property for compensation, upon and along any street, avenue, road, highway, or private property, in any city, town or village, or in any two or more civil divisions of the state, and every such corporation must comply with the provisions of this article. Any street surface railroad corporation, at any time proposing to extend its road, or to construct branches thereof, may, from time to time, make and file in each of the offices in which its certificate of incorporation is filed, a statement of the names and description of the streets, roads, avenues, highways and private property in or upon which it is proposed to construct, maintain or operate such extensions or branches. Upon filing any such statement and upon complying with the conditions set forth in section ninety-one of the railroad law, every such corporation shall have the power and privilege to construct, extend, operate and maintain such road, extensions or branches, upon and along the streets, avenues, roads, highways and private property named and described in its certificate of incorporation or in such statement. Every such corporation, before constructing any part of its road upon or through any private property described in its articles of

association or certificate of incorporation or statement, and before instituting any proceeding for the condemnation of any real property, shall make a map and profile of the route adopted by it upon or through any private property, which map and profile shall be certified by the president and engineer of the company, or a majority of its directors, and shall be filed in the office of the clerk of the county in which the road is to be constructed, and all provisions of section six of the act hereby amended so far as applicable shall apply to the route so located. If any such street surface railroad company is unable to agree for the purchase of any such real property, or of any right or easement therein required for the purpose of its railroad, or if the owner thereof shall be incapable of selling the same, or if, after diligent search and inquiry, the name and residence of such owner can not be ascertained, it shall have the right to acquire title thereto by condemnation in the manner and by the proceedings provided by the condemnation law. Nothing in this section shall be deemed to authorize a street railroad corporation to acquire real property within a city by condemnation. (*Thus amended by chap. 933, Laws of 1895.*)

See also chapter 679, Laws 1893, *post*.

CONSENT OF PROPERTY OWNERS AND LOCAL AUTHORITIES.

§ 91. A street surface railroad, or extensions or branches thereof, shall not be built, extended or operated unless the consent in writing acknowledged or proved as are deeds entitled to be recorded, of the owners, in cities and villages, of one-half in value, and in towns, not within the corporate limits of a city or village, of the owners of two-thirds in value, of the property bounded on, and also the consent of the local authorities having control of that portion of a street or highway upon which it is proposed to build or operate such railroad shall have been first obtained. The consents of property owners in one city, village or town, or in any other civil division of the state, shall not be of any effect in any other city, village or town, or other civil division of the state. Consents of property owners heretofore obtained to the building, extending, operating or change of motive power shall be effectual for the purposes therein mentioned and may be deemed to be sufficiently proved and shall be entitled to be recorded, whenever such consents shall have been signed, executed or acknowledged before an officer authorized by law to take acknowledgments of deeds, or before or in the presence of a subscribing witness, and without regard to whether or not the subscribing witness shall have affixed his signature in the presence of the subscriber, provided that the proof of such signing, execution

or acknowledgment shall have been made by such subscribing witness in the manner prescribed by chapter three, part two of the revised statutes. In cities the common council, acting subject to the power now possessed by the mayor to veto ordinances; in villages the board of trustees, and in towns the commissioner or commissioners of highways shall be the local authorities referred to; if in any city or county the exclusive control of any street, avenue or other property, which is to be used or occupied by any such railroad, is vested in any other authority, the consent of such authority shall also be first obtained. The value of the property above specified shall be ascertained and determined by the assessment-roll of the city, village or town in which it is situated, completed last before the local authorities shall have given their consent, except property owned by such city, village or town, or by the state of New York, or the United States of America, the value of which shall be ascertained and determined by making the value thereof to be the same as is shown by such assessment-roll to be the value of the equivalent in size and frontage of the adjacent property on the same street or highway; and the consent of the local authorities shall operate as the consent of such city, village or town as the owners of such property. (*Thus amended by chap. 855, Laws 1896.*)

CONSENT OF LOCAL AUTHORITIES; HOW PROCURED.

§ 92. The application for the consent of the local authorities shall be in writing, and before acting thereon such authorities shall give public notice thereof and of the time and place when it will first be considered, which notice shall be published daily in any city for at least fourteen days in two of its daily newspapers, if there be two, if not, in one, to be designated by the mayor, and in any village or town for at least fourteen days in a newspaper published therein, if any there shall be, and if none, then daily in two daily newspapers if there be two, if not, one published in the city nearest such village or town. Such consent must be upon the expressed condition that the provisions of this article pertinent thereto shall be complied with, and shall be filed in the office of the clerk of the county in which such railroad is located. Whenever the consent of the common council of a city is applied for, the first consideration, of which notice is hereby required, may be by committee of such common council. Any such notice, publication or consideration heretofore or hereafter given, made or had in substantial conformity with the requirements of this section, is and shall be sufficient notice, publication and consideration for all the purposes hereof

notwithstanding any conflicting provision of any local or special act or charter. (*Thus amended by chap. 434, Laws 1893.*)

CONDITIONS UPON WHICH CONSENT SHALL BE GIVEN; SALE OF FRANCHISE AT PUBLIC AUCTION.

§ 93. The consent of the local authorities in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form and amount* and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal office* of the city, for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated according to the plan or plans and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad, such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor; and further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly-incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in

* So in the original.

writing and under seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route or routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the corporation first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to the requirements and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers, at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily papers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentages of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to oper-

ate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale of any such consent and right heretofore granted shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities, unless it be otherwise provided in such consent or in some renewal thereof may be forfeited at the expiration of two years thereafter, and every such consent heretofore given to a corporation incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, or chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, for the purpose of constructing and operating a street surface railroad only, wholly south of the Harlem river, shall be deemed to be in full force and effect and shall continue until June thirtieth, eighteen hundred and ninety-five, when it shall cease, unless prior thereto the required consent of property owners, or the order of the general term in lieu thereof, shall have been first obtained; and the provisions of this section shall apply to all applications for such consents made under any statute, either before or after the passage of this chapter, and not finally acted upon at the time of its passage. The board of sinking fund commissioners of any city shall have power to compromise or release any existing liability or obligation to the mayor, aldermen and commonalty of such city under the provisions of chapter six hundred and forty-two of the laws of eighteen hundred and eighty-six, or of this chapter whenever, in the opinion of such board, such release or compromise shall be just or equitable, or for the public interest, the reason for any such release or compromise to be stated in the recorded proceedings of such board. Whenever it shall be desired to unite two street surface railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection can not be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street sur-

face railroad corporation, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this chapter, for the purposes, at the times, in the manner and upon the conditions set forth in such section. Nothing herein contained shall be construed as applying to or affecting or modifying the terms of a certain contract bearing date January first, eighteen hundred and ninety-two, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in such contract. The local authorities may, in their discretion, make their consent to depend upon any further conditions respecting other or further security, or deposit, suitable to secure the construction, completion and operation of the railroad within any time not exceeding the period prescribed in this article and respecting the character, quality or motive power of the road to be completed and respecting the application of any provision herein contained as to carriage of passengers for single fare and the division of gross receipts and the payment of percentages to the line leased or operated under contract by the applicant for an extension, and also respecting any other matter concerning which, in their judgment, further conditions would be for the public interest. Any and all proceedings heretofore taken in substantial compliance with the provisions of this section, as now amended, are hereby approved, ratified and confirmed. (*Thus amended by chap. 434, Laws 1893.*)

PROCEEDINGS IF PROPERTY OWNERS DO NOT CONSENT.

§ 94. If the consent of property owners required by any provision of this article can not be obtained, the corporation failing to obtain such consents may apply to any general term of the supreme court held in the department in which it is proposed to construct its road for the appointment of three commissioners to determine whether such railroad ought to be constructed and operated. Notice of such application must, at least ten days prior thereto, be served, personally upon each non-consenting property owner by delivering the same to the person to whom such property is assessed upon such assessment-roll or by duly mailing the same, properly folded and directed, to such property owner at his post-office address with the postage prepaid thereon. If the person upon whom service is to be made is unknown, or his residence and post-office address are

unknown and can not by reasonable diligence be ascertained, service of such notice may be made by publishing the same in such newspaper of the county as the court may direct, at least once a week for two successive weeks. Upon due proof of service of such notice the court to which the application is made shall appoint three disinterested persons, who shall act as commissioners, and who shall, within ten days after their appointment, cause public notice to be given of their first meeting in the manner directed by the court, and may adjourn from time to time, until all their business is completed. Vacancies may be filled by the court after such notice to parties interested as it may deem proper to be given; and the evidence taken before as well as after the happening of the vacancy shall be deemed to be properly before such commissioners. After a public hearing of all parties interested, the commissioners shall determine whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to the general term, within sixty days after appointment, unless the court, or a judge thereof, for good cause shown, shall extend such time; and their determination that such road ought to be constructed and operated, confirmed by such court, shall be taken in lieu of the consent of the property owners hereinbefore required. The commissioners shall each receive ten dollars for each day spent in the performance of their duties and their necessary expenses and disbursements, which shall be paid by the corporation applying for their appointment. (*Thus amended by chap. 676, Laws 1892.*)

PERCENTAGE OF GROSS RECEIPTS TO BE PAID IN CITIES OR VILLAGES; REPORT OF OFFICERS.

§ 95. Every corporation building or operating a railroad, or a branch or extension thereof, under the provisions of this article, or of chapter 252 of the laws of 1884, within any city of this state having a population of 1,200,000 or more, shall, for and during the first five years after the commencement of the operation of any portion of its railroad annually, on November first, pay into the treasury of the city in which its road is located, to the credit of the sinking fund thereof, three per cent. of its gross receipts for and during the year ending September thirtieth next preceding; and after the expiration of such five years, make a like annual payment into the treasury of the city to the credit of the same fund, of five per cent. of its gross receipts. If a street surface railroad corporation existing and operating any such railroad in any such city on May 6, 1884, shall have thereafter extended its tracks or constructed branches therefrom,

and shall operate such branches or extensions under the provisions of chapter 252 of the laws of 1884, or of this article, such corporation shall pay such percentages only upon such portion of its gross receipts as shall bear the same proportion to its whole gross receipts as the length of such extension or branches shall bear to the entire length of its line. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this article, the payment annually of such percentage of gross receipts, not exceeding three per cent. in the treasury of the city or village as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner heretofore provided. The corporation failing to pay such percentage of its gross earnings, shall after November first, pay in addition thereto five per cent. a month on such percentage until paid. The president and treasurer of any corporation required by the provisions of this article to make a payment annually upon its gross receipts shall, on or before November first in each year, make a verified report to the comptroller or chief fiscal officer of the city of the gross amount of its receipts for the year ending September thirtieth, next preceding, and the books of such corporation shall be open to inspection and examination by such comptroller or officer or his duly appointed agent, for the purpose of ascertaining the correctness of its report as to its gross receipts. The corporate rights, privileges and franchises acquired under this article or such chapter by any corporation, which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the state, and upon judgment of forfeiture rendered in an action brought in the name of the people by the attorney-general, shall cease and determine. (*Thus amended by chap. 676, Laws 1892.*)

EXTENSION OF ROUTE OVER RIVERS; TERMINUS IN OTHER COUNTIES; WHEN PROPERTY OWNERS WITHHOLD CONSENT; SUPREME COURT MAY APPOINT COMMISSIONERS.

§ 96. Any street railroad in operation in this state, which shall, by a two-thirds vote of its directors, decide to extend the route of its road, so as to cross a river over and by any bridge now or hereafter constructed under the provisions of any law of this state, may so extend their route over and across such bridge upon such terms as may be mutually agreed upon between it and such bridge company, and may locate the terminus of their road in the county adjoining the one in which their road is now located and in operation, upon first obtaining the consent of such bridge company or its lessees, and the consent of the owners of one-half in value of the property

bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, or in case the consent of such property owners cannot be obtained the appellate division of the supreme court in the district in which it is proposed to be constructed may, upon application, appoint three commissioners, who shall determine after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Whenever a terminus of any public viaduct, bridge or bridges, or public viaduct connected with any bridge or bridges, heretofore or hereafter constructed in and owned and maintained by any city of the first class, or town adjoining the same, is or shall be located at or adjacent to or within one-half mile of the route of any existing street surface railroad the corporation owning or operating such railroad may, irrespective of any provisions otherwise applicable thereto contained in any general or local act, upon obtaining the consent of the local authorities and property owners as above provided, and upon complying with the provisions of the railroad law applicable thereto, extend its road or route and construct and operate its railroad, to, upon and across such viaduct, bridge or bridges and approaches thereto for the purpose of connecting with another railroad route not more than one-half mile distant from such bridge or viaduct so as to afford a continuous ride for one fare, subject to the provisions of the railroad law. This section shall not apply to any bridge over the Hudson or East rivers in the counties of New York and Kings, nor to any bridge or viaduct constructed under the provisions of any, so-called, grade crossing law. *(Thus amended by chap. 590, Laws of 1898.)*

USE OF TRACKS OF OTHER ROADS.

§ 97. Any railroad corporation in this state, whose cars are run and operated by horses or other motive power, authorized by this article, upon the surface of the street, excepting in the city and county of New York, may, for the purpose of enabling it to connect with and run and operate its cars between its tracks and a depot or car-house owned by it, run upon, intersect, and use, for not exceeding five hundred feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner with the necessary connections and switches for the proper working and accommodation of the cars upon such tracks, and in connection with such depot or car-house, upon paying therefor such compensation as it may agree upon with the corporation owning the tracks to be so run upon, intersected, and used; and in case such corporations cannot agree upon the amount of such compensation, the same shall be ascertained and determined in the manner prescribed in the condemnation law.

REPAIR OF STREETS; RATE OF SPEED; REMOVAL OF ICE AND SNOW.

§ 98. Every street surface railroad corporation so long as it shall continue to use any of its tracks in any street, avenue or public

place in any city or village, shall have and keep in permanent repair that portion of such street, avenue or public place between its tracks, the rails of its tracks, and two feet in width outside of its tracks, under the supervision of the proper local authorities, and whenever required by them to do so, and in such manner as they may prescribe. In case of the neglect of any corporation to make pavements or repairs after the expiration of thirty days' notice to do so, the local authorities may make the same at the expense of such corporation, and such authorities may make such reasonable regulations and ordinances as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interests or convenience of the public may require. A corporation whose agents or servants willfully or negligently violate such an ordinance or regulation, shall be liable to such city or village for a penalty not exceeding five hundred dollars to be specified in such ordinance or regulation. (*Thus amended by chap. 676, Laws 1892.*)

WITHIN WHAT TIME ROAD TO BE BUILT.

§ 99. In case any such corporation shall not commence the construction of its road, or of any extension or branch thereof, within one year after the consent of the local authorities and property owners or the determination of the general term as herein required, shall have been given or renewed, and shall not complete the same within three years after such consents, its rights, privileges and franchises in respect of such railroad extension or branch as the case may be, may be forfeited. If the performance of any such act, within such time, is prevented by legal proceedings in any court, such court may also extend such time for such period as the court shall deem proper. The time for compliance with this requirement in this or any former act, by a street surface railroad corporation incorporated for the purpose of constructing a street surface railroad only, wholly south of the Harlem river and in cities of over twelve hundred thousand inhabitants and which has heretofore obtained such consents, is hereby extended until June thirtieth, eighteen hundred and ninety-five. (*Thus amended by chap. 434, Laws 1893.*)

MOTIVE POWER

§ 100. Any street surface railroad may operate any portion of its road by animal or horse power, or by cable, electricity, or any power other than locomotive steam power, which said locomotive steam power is primarily generated by the locomotive propelling the cars, and in the use of which either escaping smoke or steam is visible, which may be approved by the state board of railroad commissioners, and consented to by the owners of one-half of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed; and if the consent of such property owners cannot be obtained, the determination of three disinterested commissioners, appointed by the general term of the supreme court of the department in which such railroad is located,

in favor of such motive power, confirmed by the court, shall be taken in lieu of the consent of the property owners. The consent of the property owners shall be obtained and the proceedings for the appointment and the determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections ninety-one and ninety-four of this article, so far as the same can properly be made applicable thereto. Any railroad corporation making a change in its motive power under this section, may make any changes in the construction of its road, or roadbed or other property rendered necessary by the change in its motive power. (*Thus amended by chap. 584, Laws of 1899.*)

RATE OF FARE.

§ 101. No corporation constructing and operating a railroad under the provisions of this article, or of chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road, line or branch operated by it, or under its control, to any other point thereof, or any connecting branch thereof, within the limits of any incorporated city or village. Not more than one fare shall be charged within the limits of any such city or village, for passage over the main line of road and any branch or extension thereof if the right to construct such branch or extension shall have been acquired under the provisions of such chapter or of this article; except that in any city of the third class, or incorporated village, it shall be lawful for such corporation to charge and collect as a maximum rate of fare for each passenger, ten cents, where such passenger is carried in a car which overcomes an elevation of at least four hundred and fifty feet within a distance of one and a half miles. This section shall not apply to any part of any road constructed prior to May six, eighteen hundred and eighty-four, and then in operation, unless the corporation owning the same shall have acquired the right to extend such road, or to construct branches thereof under such chapter, or shall acquire such right under the provisions of this article, in which event its rate of fare shall not exceed its authorized rate prior to such extension. The legislature expressly reserves the right to regulate and reduce the rate of fare on any railroad constructed and operated wholly or in part under such chapter or under the provisions of this article. (*Thus amended by chap. 688, Laws 1897.*)

CONSTRUCTION OF ROAD IN STREET WHERE OTHER ROAD IS BUILT.

§ 102. No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is or shall be lawfully constructed, except for necessary crossings or, in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants over any bridges, without first obtaining the consent

of the corporation owning and maintaining the same, except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, and if in a city having a population of less than thirty-five thousand inhabitants, except Long Island City, for a distance not exceeding fifteen hundred feet, and in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants, shall have the right to lay its tracks upon, and run over and use any bridges used wholly or in part as a foot-bridge, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed or operated as an independent railroad, or to connect said railroad with a ferry, or with another existing railroad, and that the public convenience requires the same, in which event the right to use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another shall consider and allow for the use of the tracks for all injury and damage to the corporation whose tracks may be so used. Any street surface railroad corporation may, in pursuance of a unanimous vote of the stockholders voting at a special meeting called for that purpose by notice in writing, signed by a majority of the directors of such corporation, stating the time, place and object of the meeting, and serving upon each stockholder appearing as such upon the books of the corporation, personally or by mail, at his last known post-office address, at least sixty days prior to such meeting, guarantee the bonds of any other street surface railroad corporation whose road is fully or partly in the same city or town or adjacent cities or towns. (*Thus amended by chap. 693, Laws 1894.*)

ABANDONMENT OF PART OF ROUTE.

§ 103. Any street surface railroad corporation which is the lessee or lessor, or both, or which has the right to use the route or portion of the route of another such corporation pursuant to a lease or agreement lawfully entered into with it, may declare any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract, to be relinquished or abandoned. Such

declaration of abandonment must be adopted by the board of directors of the corporation under its seal, which shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as required by law for meetings of stockholders for the approval of leases by railroad corporations for the use of their respective roads. If the stockholders shall, at such meeting, ratify and adopt such declaration of abandonment, the secretary of the company shall so certify under the seal of the corporation, upon such declaration. Such declaration shall then be submitted to the board of railroad commissioners for its approval, and if approved by such board, such approval shall be indorsed thereon or annexed thereto, and the declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing, such portion of the route designated in the declaration shall be deemed to be abandoned. (*Thus amended by chap. 676, Laws 1892.*)

**CONTRACTING CORPORATIONS TO CARRY FOR ONE FARE;
PENALTY.**

§ 104. Every such corporation entering into such contract shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall upon demand, and without extra charge, give to each passenger paying one single fare a transfer, entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section the corporation so refusing shall forfeit fifty dollars to the aggrieved party. The provisions of this section shall only apply to railroads wholly within the limits of any one incorporated city or village. (*Thus amended by chap. 676, Laws 1892.*)

EFFECT OF DISSOLUTION OF CHARTER AS TO CONSENTS.

§ 105. Whenever any street surface railroad corporation shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of owners of property bounded on, and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such corporation

shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being. The right to the further enjoyment and to the use thereof, subsequent to such act of dissolution, annulment or repeal, and of all the powers, privileges and benefits therein or thereby created, shall be sold at public auction by the local authorities within whose jurisdiction such railroad shall be, in the same manner as is provided in section 93 of this article. When such sale shall have been so made, the purchaser thereat shall have the right to the further enjoyment and use of such consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created, in like manner as if such purchaser had been originally named in such consents, reports and orders; if such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroad shall be. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATE RIGHTS SAVED IN CASE OF FAILURE TO COMPLETE ROAD; RIGHT TO OPERATE BRANCHES; CONDITIONS; FORMER CONSENTS RATIFIED; LIMITATIONS.

§ 106. The corporate existence of and powers of every street surface railroad corporation, which has completed a railroad upon the greater portion of the route designated in its certificate of incorporation, within ten years from the date of filing such certificate in the office of the secretary of state, and which has operated such completed portion of its railroad continuously for a period of five years last past, and is now operating the same, shall continue with like force and effect, as though it had in all respects complied with the provisions of law with reference to the time when it should have fully completed its road. Every such corporation shall have the right to operate any extensions* and branches of its railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past, with like force and effect, as though the route of such extensions* and branches were designated in its certificate of incorporation. But every such street railroad corporation is authorized to operate such railroad and any extension* or branches thereof, upon condi-

* So in the original.

tion that it has heretofore, or shall hereafter, obtain the consent of the local authorities having the control of that portion of the streets, avenues or highways included in such railroad, or any extension or branches thereof, to the construction and operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of such railroad, or any extension* or branches thereof, to the construction and operation of the same or in case the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all the parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. All consents heretofore given, or grants made by local authorities having the control of the portion of any street, avenue or highway included in the route of such railroad, or any extensions or branches thereof, to any such street surface railroad corporation, are hereby ratified and confirmed and declared valid. This section shall be applicable to any such corporation in any town, city or village having less than twenty thousand inhabitants which has completed any portion of its road upon the route designated in its certificate of incorporation within the time required by law for the completion of its road. This section shall not apply to or affect any railroad corporation in the city of New York; nor any special grant made to or authority conferred upon any street surface railroad corporation by any law of this state; nor any pending litigation; nor shall it impair existing rights, privileges or franchises of any street surface railroad corporation. (*Thus amended by chap. 676, Laws 1892.*)

WHEN SAND MAY BE USED ON TRACKS.

§ 107. The owner or operator of any street surface railroad in cities of this state, may place upon the space between the rails, and upon the rails of such road sand in sufficient quantities to prevent the horses traveling thereon from slipping, and to enable cars operated by mechanical, or electrical appliances to be safely and properly operated. The owner or operator of any street surface railroad in cities of this state may use salt in necessary quantities, upon the rails of all the switches, curves, turnouts and crossovers, between the first day of November of each year and the first day of May following, for the removal of snow and ice therefrom and

to prevent the same from freezing. The quantity of salt to be used and the manner of applying salt to the rails, to be under the direction of the city officials having charge of the streets of said cities. (*Thus amended by chap. 491, Laws 1899.*)

§ 108. No street surface railroad shall be constructed or extended upon ground occupied by buildings belonging to any town, city, county or to the state, or to the United States, or in public parks, except in tunnels to be approved by the local authorities having control of such parks. Provided, however, that the commissioners of the state reservation at Niagara, by and with the consent of the commissioners of the land office, may construct, without expense to the state, street railroad tracks upon and along that part of the riverway, so called, between Falls and Niagara streets, in the city of Niagara Falls, and in their discretion may grant revokable licenses to street surface railroad companies to use such tracks upon such terms as said commissioners may prescribe. (*Thus amended by chap. 710, Laws 1899.*)

CENTER-BEARING RAILS PROHIBITED.

§ 109. No street surface railroad corporation shall hereafter lay down in the streets of any incorporated city or village of this state what are known as "center-bearing" rails; but in all cases, whether in laying new track or in replacing old rails, shall lay down "grooved" or some other kind of rail not "center-bearing" approved by the local authorities. Such grooved or other rail shall be of such shape and so laid as to permit the paving stones to come in close contact with the projection which serves to guide the flange to the car wheel.

Where in any city, the duty of repairing and repaving streets, as distinguished from the authorization of such paving, repairing and repaving, is by law vested in any local authority other than the common council of such city, such other local authority shall be the local authority referred to in this section. (*Thus amended by chap. 676, Laws 1892.*)

RIGHT TO CROSS BRIDGE SUBSTITUTED FOR BRIDGE CROSSED FOR FIVE YEARS.

§ 110. Should any street surface railroad company have crossed any bridge as a part of its route for a period of more than five years and should any other bridge be substituted therefor at any time, such company shall have the right to cross such substituted bridge and to lay and use railway tracks thereon for the transit of its cars and to make all changes and extensions of its route subject to all the provisions of this act, as the convenient operation of its cars and the public convenience may require. (*This section was added by chap. 676, Laws 1892.*)

ARTICLE V.

* OTHER RAILROADS IN CITIES AND COUNTIES.

SECTION 120. Application for railway; commissioners.

121. Oath and bond of commissioners.

122. First meeting of commissioners.

123. Determination of necessity of railroad and route.

124. Adoption of plans and terms upon which road shall be built.

125. Appraisal of damages and deposit of money as security.

126. Shall prepare certificate of incorporation; proviso as to forfeiture.

127. Organization.

128. Commissioners to deliver certificate; affidavit of directors.

129. Powers.

130. Crossing of horse railroad track.

131. Where route coincides with another route.

132. Commissioners; to transfer plans, etc.

133. Commissioners to file report; confirmation thereof.

134. Pay of commissioners.

135. Quorum; term of office; removal; vacancies in board of commissioners.

136. Abandonment or change of route; new commissioners; their power and proceedings.

137. Increased deposits; when and how required.

138. Trains to come to full stop, etc.

139. Gates.

140. Penalty for violation of this article.

141. Sections to be printed and posted.

142. Extension of time.

APPLICATION FOR RAILWAY; COMMISSIONERS.

§ 120. Upon the application of at least fifty reputable householders and taxpayers of any county or city, verified upon oath before a justice of the supreme court, that there is need in said county or city of a steam railway in the streets, avenues and public places thereof for the transportation of passengers, mails or freight, the board of supervisors of such county may, within thirty days thereafter by resolution, approve of the application, and authorize its presentation to the supreme court, and if the railway is to be built wholly within the limits of a city, upon the application of a like number of householders and taxpayers of the city to the mayor thereof, such mayor may, within thirty days thereafter, indorse upon the application his approval and direction that it may be presented to the supreme court, and if the railway is to be built, partly within the limits of a city and partly without, such application shall be approved, both by the mayor of the city and the board of supervisors of the county, and its presentation to the supreme court authorized by them, and upon the presentation of such application so approved and authorized to a special term of the supreme court, held in the

* See Rapid Transit Act, *post*.

district where such railway is to be built, or some part thereof, the court may appoint five commissioners, residents of the city if the railway is to be built wholly within the city, and of the county, if it is to be built wholly or partly outside of the limits of a city, to determine the necessity of such railroad, the route thereof, the time within which and the conditions upon which it shall be constructed, the damages to the property owners along the line thereof and all the matters lawfully submitted to them, and discharge the duties imposed upon them by law.

OATH AND BOND OF COMMISSIONERS.

§ 121. Within ten days after his appointment and before entering upon the discharge of any of the duties of his office, each commissioner shall take and subscribe the constitutional oath of office, which shall be filed in the office of the clerk of the county and shall execute a bond to the people of the state in the penal sum of twenty-five thousand dollars, with two or more sureties, to be approved by a justice of the supreme court of the department in which the railway is to be built and conditioned for the faithful performance of the duties of the office, which bond shall be filed in the office of the clerk of the county.

FIRST MEETING OF COMMISSIONERS.

§ 122. Within fifteen days after their appointment, the commissioners shall meet in some convenient place in the county or city and organize themselves as a board with appropriate officers.

DETERMINATION OF NECESSITY OF RAILROAD AND ROUTE.

§ 123. The commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railroad, and if they find it to be necessary, they shall, within sixty days after such organization fix and determine the route therefor, and shall have the exclusive power to locate such route, over, under, through or across the streets, avenues, places or lands in such county or city, and to provide for the connection or junction with any other railway or bridge, if the consent of the owners of one-half in value of the property bounded on and the consent of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway have been first obtained. If the consent of such property owners can not be obtained, the determination of three commissioners appointed by the general term of the supreme court of the department where the railroad is to be

constructed, made after due hearing of all parties interested, and confirmed by the court, that such railway ought to be constructed and operated, may be taken in lieu of the consent of such property owners. No such railway shall be located in or upon such portion of any street, avenue, place or lands in such county as are now occupied by an elevated or underground railway or in which such railway has already been authorized by law to be so located and constructed, or which are contained in public parks, or occupied by buildings belonging to the county or the state or United States, or in or upon the following streets, avenues and public places, viz.: Broadway, Fifth avenue, Fourth avenue above Forty-second street, in the city of New York; Debevoise place, Irving place, Lefferts place, those portions of Grand, Classon and Franklin avenues and Dowling street lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, that portion of Cla-son avenue lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and that portion of Washington avenue lying between Park and Atlantic avenues in the city of Brooklyn; and that portion of the city of Buffalo lying between Michigan and Main streets, but such railway may be located and constructed across such excepted streets, avenues and places at their intersection only with other streets, avenues and places. (*Thus amended by chap. 676, Laws 1892.*)

ADOPTION OF PLANS, AND TERMS UPON WHICH ROAD SHALL BE BUILT.

§ 124. The commissioners by such public notice, and under such conditions, and with such inducements as they may prescribe, shall invite a submission of plans for the construction and operation of such railway, and shall meet at a time and place in such notice named, not more than ninety days after their organization, and decide upon the plans for the construction thereof, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances, upon the route or location determined upon by them. They shall upon notice to the local authorities, and after hearing all parties interested, fix and determine what compensation, if any, in a gross sum, or in a certain percentage of receipts, shall annually be paid to the local authorities by the corporation formed for the purpose of constructing, maintaining and operating such railway for public use in the conveyance of persons and property, for the use and occupation by the corpora-

tion of the streets, avenues and highways in and upon which its railway is to be constructed, and the time when such railway, or a portion thereof, shall be constructed and ready for operation, and the maximum rates to be paid for transportation and conveyance thereon, and the hours during which special cars or trains shall be run at reduced rates of fare; and the amount of the capital stock of such corporation and the number of shares into which it shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares.

The commissioners may select two or more routes, upon one of which such railway may be constructed and operated; and the local authorities may consent to the construction and operation of such railway upon one or more of such routes, or parts thereof; and the commissioners shall have power to change and readopt routes and plans for the construction and operation of such railway, after they have been submitted to the local authorities, in cases where such authorities may recommend such changes, or may not be willing to consent to the construction or operation of the railway, upon the routes, and plans adopted, unless such changes are made therein. (*Thus amended by chap. 676, Laws 1892.*)

APPRAISAL OF DAMAGES AND DEPOSIT OF MONEY AS SECURITY.

§ 125. The commissioners shall, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damages arising from the diminution in the value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway to be caused by the construction and operation thereof. For that purpose they shall view the several parcels of real property so bounded, and shall appraise separately the pecuniary damages arising from such diminution in value of each parcel thereof, and for the purposes of such appraisal they shall give notice of the time and place, when and where they will meet to hear the owners or persons interested in such real property, which notice shall be published for at least ten days consecutively in at least two newspapers in the county where such railway is to be constructed, and shall take such material testimony upon the probable diminution in value of any or all such parcels to be so caused as may be offered by or in behalf of any person or party interested therein, and the aggregate sum of the amounts so appraised and determined by them shall be the aggregate pecuniary damage required to be ascertained and determined as above pro-

vided. No corporation which shall hereafter be organized under this article shall enter upon any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway or any part thereof, and by the board of supervisors, when the road does not lie wholly within a city, a sum of money equal to the amount so ascertained and determined by the commissioners to be the aggregate pecuniary damage to such property within the city, or within the county outside of any city, or shall have secured the payment of such amount by depositing with such trust company negotiable securities, equivalent at their par and actual value to such aggregate amount, and approved by the mayor of the city in which such road is wholly or in part located, and by the county treasurer of the county if the road is located wholly or in part outside of the limits of such city. The court may accept in lieu of the deposit of money or securities herein required the bond of the corporation, with two or more securities, to be approved by the court, to the effect that the corporation before constructing or operating its railway in front of any premises, shall pay to the owner of the real property all the damages sustained, or which will be sustained by him, as fixed and determined by such commissioners, and the costs allowed, if any. Such bond shall be in a sum double the amount of such damages, and the sureties shall justify in the aggregate to an amount equal to the amount of such bond. Such corporation shall also, at the same time, deposit with such trust company or with the county treasurer, as the commissioners may direct, the sum of five thousand dollars in cash, for the payment of the expense of apportioning and distributing such fund. Unless such moneys or securities shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or the confirmation by the general term of the supreme court, of the determination of three commissioners in lieu thereof, and in the case of a corporation heretofore organized within one year after it shall have obtained the confirmation by the general term of the supreme court of the report of three commissioners in lieu of the consent of property owners, or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this article, shall have made their report, then such corporation shall be deemed not to have accepted the franchises granted. Where the commissioners shall fix and determine different periods of time within which different sections of such railway shall be con-

structed and ready for operation, they shall ascertain, determine, and report separately the aggregate pecuniary damage to property bounded upon that portion of such street or streets upon which each of such sections is located. Upon the deposit by the corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections, or of any bond given in lieu thereof, it shall immediately be vested with the right and privilege to construct its railway through such section. (*Thus amended by chap. 676, Laws 1892.*)

**SHALL PREPARE CERTIFICATE OF INCORPORATION; PROVISIO
AS TO FORFEITURE.**

§ 126. The commissioners shall prepare an appropriate certificate of incorporation for the corporation in the last section mentioned in which shall be set forth and embodied, as component parts thereof, the several conditions, requirements and particulars by such commissioners determined pursuant to the provisions of this article, and which shall also provide for the release and forfeiture to the supervisors of the county, or if the road is to be constructed wholly or partly within a city, to such city, of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the commissioners shall thereupon and within one hundred and twenty days after their organization, cause a suitable book of subscription to the capital stock of such corporation, to be opened pursuant to due public notice at a banking office in such county or city. A failure by any corporation heretofore or hereafter organized under this article to complete its railway within the time limited in and by its certificate of incorporation shall only work a forfeiture of the franchises of such corporation with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its certificate of incorporation, or as to which the time for completion shall not have expired, notwithstanding anything to the contrary in its certificate of incorporation.

ORGANIZATION.

§ 127. Whenever the whole capital stock of such corporation or an amount of such capital stock proportioned to the part of such railway directed by the commissioners to be constructed, shall have been subscribed by not less than fifteen persons, and the fixed per-

centage of such subscriptions shall have been paid, in cash, the commissioners shall, by written or printed notice of ten days, served personally or by mail, call a meeting of such subscribers for organization, and appoint the inspectors of election to serve thereat. At such meeting, or at any subsequent one to which the same may be adjourned, a majority in number and amount of such subscribers may elect persons, of a number to be theretofore determined by the commissioners not less than nine, who shall be directors for one year of the corporation formed for the purposes of constructing and operating such railway.

COMMISSIONERS TO DELIVER CERTIFICATE; AFFIDAVIT OF DIRECTORS.

§ 128. Within ten days after the election of such directors the commissioners shall deliver to them a certificate in duplicate, verified by the oath of three commissioners, before a justice of the supreme court, setting forth the certificate of incorporation and the organization of the corporation for the purposes therein mentioned, and within five days after the reception by them of such certificates, three of the directors so elected shall make affidavit in duplicate that the full amount of stock has been subscribed in good faith to construct, maintain and operate the railway or railways in such certificate of incorporation mentioned, and such directors shall file such affidavits and certificate in the office of the secretary of state, and a duplicate of the same in the office of the clerk of the county wherein such railway shall be located; and thereupon the persons who have so subscribed such certificate of incorporation and all persons who shall become stockholders in such corporation shall be a corporation by the name specified in such certificate, and be subject to the duties, liabilities and restrictions of such corporations.

POWERS.

§ 129. Every such corporation shall have power, in addition to the powers conferred by the general and stock corporation laws and by subdivisions two, five and seven of section eight of this chapter:

1. To take and convey persons and property on their railroad by the power or force of steam or by any motor other than animal power, and to receive compensation therefor.
2. To enter upon and underneath the several streets, avenues and public places and lands designated by the commissioners, and enter into and upon the soil of the same, to construct, maintain, operate and use in accordance with the plan adopted by the commissioners.

a railway upon the route or routes and to the points decided upon and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon such plan and for operating the same; and to make such excavations and openings along the route through which such railways shall be constructed as shall be necessary from time to time. In all cases the surface of the streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and any interference with or change in the water mains, or in the sewers or lamp posts, except such changes as may be made with the concurrence of the proper department or authority shall be avoided; and the use of the streets, avenues, places and lands designated by the commissioners and the right of way through the same for the purpose of a railway, as herein authorized, shall be considered and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held. No such corporation shall have the right to acquire the use or occupancy of public parks or squares in any such city or county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction, and no such railway shall be constructed across the track of any steam railway now in actual operation at the grade thereof, nor shall any piers or supports for any elevated railway be erected upon a railway track now actually in use in any street or avenue; and no such corporation shall construct a street surface railroad to run in whole or in part upon the surface of any street or highway under the provisions of this article.

CROSSING OF HORSE RAILROAD TRACK

§ 130. Whenever the route selected by the commissioners for the construction of such railway shall intersect, cross or coincide with any horse railway track occupying the surface of the street or avenues, such railway corporation is hereby authorized to remove, for the purpose of constructing its road, the tracks of such horse railway; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of such railway, where such removals or changes have been made, the same shall be restored as near as may

be to the condition in which they were previous to the construction of such railroad. All such removals and restorations shall be made at the proper cost and charges of such corporation, but no authority is herein given to any such corporation to use the tracks of any horse railway.

WHERE ROUTE COINCIDES WITH ANOTHER ROUTE.

§ 131. Whenever the route or routes determined upon by the commissioners coincide with the route or routes covered by the charter of an existing corporation, formed for the purpose of constructing and operating such a railway, and it has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time therein prescribed, such corporation shall have the like power to construct and operate such railway upon the fulfillment of the like requirements and conditions imposed by the commissioners as a corporation specially formed under this article, and the commissioners may fix and determine the route or routes by which any elevated steam railway now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries, upon making compensation therefor, and in case such corporations can not agree with the owners of such steam railways, depots or ferries upon the amount of such compensation, and such owners may be entitled to compensation therefor, the amount of such compensation shall be ascertained and paid in the manner prescribed in the condemnation law, and upon fulfillment by such elevated railway corporations, so far as it relates to such connection, of the requirements and conditions imposed by this article, it shall possess all the powers conferred by section 129 of this article, and when any connecting route or routes shall be so designated, such elevated railway corporation may construct such connection with all the rights and with like effect as though the same had been part of the original route of such railway. (*Thus amended by chap. 676, Laws 1892.*)

COMMISSIONERS TO TRANSFER PLANS, ETC.

§ 132. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the commissioners shall transfer and deliver to the corporation all plans, specifications, drawings, maps, books and papers in their possession, and they shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this article, after deduct-

ing therefrom the necessary expenses incurred by the commissioners and the amounts due to them for their salaries.

COMMISSIONERS TO FILE REPORT; CONFIRMATION THEREOF.

§ 133. The commissioners shall within one hundred and forty days after their appointment, make a report to a special term of the supreme court of the department in which such railway may be located, of the amount of the pecuniary damage arising from the diminution of value of each parcel of property bounded on that portion of the street or streets, highway or highways, upon which it is proposed to construct such railway or railways, which will be caused by the construction, maintenance and operation thereof. The name and place of residence of the owner or owners of each parcel shall be stated if the same are known, or can be ascertained, and if not known the name of the person or persons appearing by the certificate of the clerk or register of the county, to have the title thereto from the records in his office, and a specific description of each parcel of property with reasonable certainty. The testimony, if any, taken by the commissioners as to the amount of such damage shall accompany their report. Within thirty days after filing and recording its certificate of incorporation, the corporation authorized to construct and operate such railway or railways shall move to confirm such report by giving notice of such motion to the property owners in the manner in which notice of the time and place of hearing before the commissioners is required by section 125 to be given, and if the corporation fails to so move, any property owner may make the motion; and thereafter the proceedings shall be conducted in the manner prescribed in the condemnation law. Before constructing and operating its railway in front of any real property bounded upon any street, avenue or public place wherein the corporation is authorized by the certificate and report of the commissioners to construct and operate its road, such corporation shall pay to the owner of the real property the damages sustained or which will be sustained by him in consequence thereof, as finally fixed and ascertained, and the costs allowed him, if any, and the court may direct that such damages be paid out of the moneys deposited pursuant to the provisions of section 125, or in case negotiable securities shall have been deposited in lieu of money, that so much of such securities shall be sold as may be necessary to raise the amount required to be paid to such owner for damages and costs if any. If a bond shall have been executed in lieu of such deposit, the court may order the sureties in such bond to pay the damages so fixed and

ascertained, and in default thereof, may cause them to be proceeded against and punished as for a contempt of court. (*Thus amended by chap. 676, Laws 1892.*)

PAY OF COMMISSIONERS.

§ 134. Each of the commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, and all expenses necessarily incurred by him in the discharge of his duties, to be paid by such corporation, but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the commissioners shall receive no salary, and shall cause to be returned to the subscribers for such stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by the commissioners, but the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited by this article.

QUORUM; TERM OF OFFICE; REMOVAL; VACANCIES IN BOARD OF COMMISSIONERS.

§ 135. A majority of the members of any board of commissioners appointed under this article shall be a quorum for the transaction of any business or the performance of any duty or function, or the exercise of any power, conferred or enjoined upon them. Any commissioner may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity to be heard in defense; and no commissioner thus removed is, or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner the vacancy shall be filled by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by some member of the board, or by the corporation hereinafter mentioned, of such death or resignation, and a certificate of every such appointment shall be filed as hereinbefore required. Except as otherwise provided by law, the terms of office of the commissioners shall determine and expire with the performance of their functions as hereinabove prescribed.

ABANDONMENT OR CHANGE OF ROUTE; NEW COMMISSIONERS; THEIR POWERS AND PROCEEDINGS.

§ 136. Any corporation heretofore organized or hereafter to be organized under this article, its successors or assigns, which shall

have constructed or put in operation a railway upon a part and not upon the whole of the route fixed, determined and located for such railway by a board of commissioners, may at any time apply for authority to abandon any portion of the route upon which the railway shall not have been theretofore constructed or shall not then be in operation, with or without a change and relocation of such portion, and with or without extension of the portion not abandoned, or of any part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of the route so desired to be changed or abandoned shall be situated, which is not within the limits of any city, or if such route, or any part thereof, shall be within the limits of a city, to the mayor of the city, for the route or portion thereof within such city. Five commissioners may be appointed pursuant to such an application as hereinafter provided, who shall be residents of the county or city and who shall have full power as herein provided. When such application is made by a corporation heretofore organized such commissioners may be appointed within thirty days after presentation of the same by such board of supervisors, or, as the case may be, by such mayor. When such application is made by a corporation hereafter to be organized under this article, such board of supervisors, or, as the case may be, such mayor, may within thirty days after presentation of such application, indorse thereon their or his approval and direction that it may be presented to the supreme court in the manner provided in section 120 of this article, and such court may thereupon appoint such commissioners. Within ten days after his appointment each commissioner so appointed shall take, subscribe and file the oath and give and file the bond prescribed by section 121 of this article; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as here* provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers. Such board shall have all the authority conferred by law upon commissioners appointed or authorized to be appointed under this article. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization such board shall hear the application

* So in original.

of the corporation, and all parties who may be interested therein, and within sixty days after their organization they shall determine whether any part of such route should be authorized to be abandoned, or should be changed and relocated with or without extension or extensions. If the board shall determine that no abandonment of any part of the route should be allowed, and that no change and relocation of any part thereof should be effected, and that no extension should be made, the board shall dismiss the application. If the board shall determine that an abandonment of any portion of the route should be allowed, or that any change in or extension thereof should be made, the board shall proceed to authorize and require the same upon such conditions as to the board shall seem proper, and with or without extension of the remainder of the route or of any part thereof, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the part of the route theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the part of the route theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route as so changed and fixed, determined and located. Neither such corporation nor any assign or successor thereof shall thereafter have any authority, by reason of anything done under this article to operate or construct any railway upon any portion of the route by the board so required to be abandoned. The board shall also fix and determine the time within which the railway by it authorized and required upon any portion of the route so changed, shall be reconstructed and ready for operation. If the railway on any portion of the route not by the board changed or allowed to be abandoned, shall not have been theretofore constructed and made ready for operation, the board may extend, and fix and determine anew the time within which such railway shall be completed, but such extension of time shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route theretofore located should be allowed to be abandoned, with or without a change or relocation thereof or any part thereof, and with or without extension, or if the board shall have extended the time within which such railway shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion of the route, if any there be, as so fixed, determined and located anew, and the part, if any there be, of the route allowed to be abandoned, and stating the

period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete it within the time, if any so limited, shall work a forfeiture to the supervisors of the county if no part of the road is within a city, or in any city, to such city, of the rights and franchises of such corporation with respect to that portion of the route so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be of said route, upon which a railway shall not be constructed within the time so limited; but the time, if any, unavoidably consumed by the pendency of legal proceedings, shall not be deemed a part of any period of time limited in this article, and any recital of any forfeiture of any of the rights or franchises prescribed by any commissioners heretofore appointed, to be to the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the board of supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map as hereinabove directed, showing the line and location of each and all the routes, with or without the extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the route or routes as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the secretary of state, and the duplicate thereof in the office of the clerk of the county wherein such railway shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to construct, maintain and operate a steam railway for the transportation of passengers, mail and freight, upon the route or routes so fixed, determined and located, and in said report described, but the construction or operation of a railway upon any new location or selection of route is not and shall not be thus authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners,

to be upon application appointed by the general term of the supreme court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested that such railway ought to be constructed or operated, which determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Such corporation is and the successors and assigns thereof shall be authorized to maintain and operate all the railroads and the appurtenances thereof by it or them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this article, and to complete within the time in and by such report so extended, fixed and determined anew, and thereafter to maintain and operate the railway and the appurtenances, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the same rights and effect, in all respects, as if such extended period of time had been originally fixed and determined, and in the original certificate of incorporation of such corporation recited, for completing such railway and putting it in operation. The other terms and conditions in and by such certificate mentioned and prescribed, except as the same are hereinbefore modified or may be modified by the board as hereinabove authorized, shall apply to the railway herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such articles or certificates themselves prescribed. If a new location or extension of route shall be fixed and determined by commissioners who shall have been appointed by the court pursuant to this section, they shall also ascertain and determine the aggregate pecuniary damages arising from the diminution of value of the property bounded on that portion of the street or highway upon the line of such new location or extension and of each parcel of real property so bounded, and their proceedings thereupon shall be conducted in the same manner and upon the like notice as the proceedings for that purpose before the commissioners specified in section 125, and shall make to the supreme court the report required by section 133, and thereupon the same proceedings shall be had as are provided for in such last named section. Each commissioner shall be paid for his services at the rate of ten dollars per day for each day of actual services as such commissioner, and all reasonable expenses incurred by him in or about any of the matters referred to such board, to be paid by the corporation making the application so

heard and determined. No corporation shall be authorized under this section to extend, abandon or change the location of its route, or any part thereof, where the greater portion of the route or routes is or shall be in that portion of the city of New York south or west of Harlem river, or of any route or part thereof in the city of Brooklyn, or county of Kings, or to construct, extend, abandon or change the location of any railway or route for a railway over, under, through or across any street, avenues, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway might not by law be constructed, or was not by law authorized to be by a board of commissioners located on the fifth day of June, 1888. (*Thus amended by chap. 676, Laws 1892.*)

INCREASED DEPOSIT, WHEN AND HOW REQUIRED.

§ 137. In case any of the securities deposited in lieu of money as provided in section one hundred and twenty-five, shall in the opinion of the county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the county treasurer or trust company shall call upon such railway corporation to substitute therefor other securities equivalent at their par or market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the county treasurer or trust company shall call upon such corporation to furnish as a substitute, and it shall so furnish an amount of money equal to the amount in lieu of which the securities first above referred to were deposited.

TRAINS TO COME TO FULL STOP, ETC.

§ 138. All trains upon elevated railroads shall come to a full stop before any passengers shall be permitted to leave such train; and no train on such railroad shall be permitted to start until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars, shall have actually boarded or entered the same, but no person shall be permitted to enter or board any train after due notice from an authorized employe of such corporation that such train is full and that no more passengers can be then received.

GATES.

§ 139. Every car used for passengers upon elevated railroads shall have gates at the outer edge of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

PENALTY FOR VIOLATION OF THIS ARTICLE

§ 140. Any elevated railroad corporation that shall fail or neglect to comply with or enforce the provisions of this article, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation, and proof of such failure or neglect, pay to the clerk of the court wherein such petition was made, a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order. The sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which the proceeding is had, at such time, as the board of supervisors or board of aldermen in any such county shall direct. Nothing in this section shall relieve elevated railroad corporations from any liability under which they may now be held by existing laws for damages to persons or property. (*Thus amended by chap. 676, Laws 1892.*)

SECTIONS TO BE PRINTED AND POSTED.

§ 141. The officers and board of directors of such railroad corporations shall cause copies of sections one hundred and thirty-eight, one hundred and thirty-nine and one hundred and forty to be printed conspicuously and posted in the depots or stations and in each car belonging to them.

EXTENSION OF TIME.

§ 142. The time within which any act is required to be done under this article may be extended by the supreme court for good cause shown, for one year, and but one extension will be granted. Any company that has heretofore constructed or is now operating an elevated railroad shall be deemed to have been duly incorporated, notwithstanding any failure on the part of commissioners to insert in its articles of association provisions complying with statutory requirements relative to such articles. (*This section was added by chap. 676, Laws 1892.*)

ARTICLE VI.

THE BOARD OF RAILROAD COMMISSIONERS.

SECTION 150. Appointment and term of office of railroad commissioners.

151. Suspension from office.
152. Secretary and marshal of board.
153. Additional officers; their duties.
154. Oath of office; eligibility of officers of board.
155. Principal officer and meetings of board.
156. Quorum of board.
157. General powers and duties of board.
158. Reports of railroad corporations.
159. Investigation of accidents.
160. Recommendations of board where law has been violated.
161. Recommendations of board when repairs or other changes are necessary.
162. Legal effect of recommendation and action of the board.
163. Corporation must furnish necessary information.
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165. Fees to be charged and collected by the board.
166. Annual report of board.
167. Certified copies of papers filed to be evidence.
168. Acts prohibited.
169. Salaries and expenses of members and officers of the board.
170. Total annual expense to be borne by railroads.
171. Application of this article.
172. Railroad Commissioners may award prizes for improvements

APPOINTMENT AND TERM OF OFFICE OF RAILROAD COMMISSIONERS.

§ 150. There shall continue to be a board of railroad commissioners, consisting of three competent persons, one of whom shall be experienced in railroad business, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold office for the term of five years, and until his successor shall have been appointed and shall have qualified. A commissioner shall in like manner be appointed upon the expiration of the term of any commissioner; and when any vacancy shall occur in the office of any commissioner, a commissioner shall in like manner be appointed for the residue of the term. If the senate shall not be in session when the vacancy occurs, the governor shall appoint a commissioner to fill the vacancy, subject to the approval of the senate when convened.

SUSPENSION FROM OFFICE

§ 151. Any commissioner may be suspended from office by the governor upon written charges preferred. The governor shall report such suspension and the reasons therefor to the senate at the

beginning of the next ensuing session, and if a majority of the senate shall approve the action of the governor, such commissioner shall be removed from office and his office become vacant.

SECRETARY AND MARSHAL OF BOARD.

§ 152. The board shall have a secretary and a marshal who shall be appointed by it and serve during its pleasure. The secretary shall keep a full and faithful record of the proceedings of the board, and be the custodian of its records, and file and preserve at its general office all books, maps, documents and papers intrusted to his care, and be responsible to the board for the same. Under the direction of the board he shall be its chief executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of its decisions, recommendations, orders and bequests*, prepare for service such papers and notices as may be required of him by the commissioners, and perform such other duties as the board may prescribe, and he shall have power to administer oaths in all cases pertaining to the duties of his office. He shall have the power to designate from time to time one of the clerks appointed by the board to act as assistant secretary during his absence from the county of Albany, and the clerk so designated for the time designated shall within the county of Albany only, possess the powers conferred by this section upon the secretary of the board. (*Thus amended by chap. 534, Laws 1892.*)

ADDITIONAL OFFICERS; THEIR DUTIES.

§ 153. The board may also appoint, to serve during its pleasure, the following officers or any of them: An accountant, who shall be thoroughly skilled in railroad accounting, and who shall, under the direction of the board, make examinations of the books and accounts of railroad and other corporations, and supervise the quarterly and annual reports made by the railroad corporations to the board, and collect and compile railroad statistics, and perform such other duties as the board may prescribe. An inspector, who shall be a civil engineer, skilled in railroad affairs; also, an inspector, who shall be an expert in electrical railroad affairs, each of whom shall make such inspections of railroads and other matters relating thereto, as directed by the board, and report to it. Such additional clerical force as may be necessary for the transaction of its business. The board may also employ engineers, accountants and other experts whose services they may deem to be of temporary importance in conducting any investigation authorized by law. (*Thus amended by chap. 456, Laws of 1896.*)

* So in original.

OATH OF OFFICE; ELIGIBILITY OF OFFICERS OF BOARD.

§ 154. Each commissioner, and every person appointed to office by the board, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. No person shall be appointed to or hold the office of commissioner or be appointed by the board to, or hold any office, place or position under it who holds any official relation to any railroad corporation, or owns stock or bonds therein, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any such corporation.

PRINCIPAL OFFICE AND MEETINGS OF BOARD.

§ 155. The principal office of the board shall be at the city of Albany, in rooms designated by the capitol commissioners, and it may have a branch office at the city of New York, and one at the city of Buffalo; and the board, or a quorum thereof, shall meet at least once a month during the year at the office in Albany. The board shall have an official seal, to be prepared by the secretary of state in accordance with law, and its offices shall be supplied with necessary postage, stationery, office furniture and appliances to be paid for as other expenses authorized by this article, and it shall have prepared for it by the state the necessary books, maps and statistics, incidentally necessary for the discharge of its duties.

QUORUM OF BOARD.

§ 156. Two of the commissioners shall constitute a quorum for the transaction of any business, or the performance of any duty of the board and may hold meetings thereof at any time or place within the state. All examinations or investigations made by the board may be held and taken by and before any one of the commissioners or the secretary of the board, by the order of the board, and the proceedings and decisions of such single commissioner or secretary, shall be deemed to be the proceedings and decisions of the board, when approved and confirmed by it. (*Thus amended by chap. 534, Laws 1892.*)

GENERAL POWERS AND DUTIES OF BOARD.

§ 157. The board shall have power to administer oaths in all matters relating to its duties, so far as necessary to enable it to discharge such duties, shall have general supervision of all railroads and shall examine the same and keep informed as to their condition, and the manner in which they are operated for the security and ac-

commodation of the public and their compliance with the provisions of their charters and of law. The commissioners or either of them in the performance of their official duties may enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad corporation within the state, or doing business therein; and may examine the books and affairs of any such corporation and compel the production of books and papers or copies thereof, and the board may cause to be subpœnaed witnesses, and if a person duly subpœnaed fails to obey such subpœna without reasonable cause, or shall without such cause refuse to be examined, or to answer a legal or pertinent question, or to produce a book or paper, which he is directed by subpœna to bring, or to subscribe his deposition after it has been correctly reduced to writing, the board may take such proceedings as are authorized by the Code of Civil Procedure upon the like failure or refusal of a witness subpœnaed to attend the trial of a civil action before a court of record or a referee appointed by such court. The board shall also take testimony upon, and have a hearing for and against any proposed change of the law relating to any railroad or of the general railroad law, if requested to do so by the legislature or by the committee on railroads of the senate or the assembly, or by the governor, and may take such testimony and have such a hearing when requested to do so by any railroad corporation, or incorporated organization representing agricultural or commercial interests in the state, and shall report their conclusions in writing to the legislature, committee, governor, corporation or organization making such request; and shall recommend and draft such bills as will in its judgment protect the people's interest in and upon the railroads of this state.

REPORTS OF RAILROAD CORPORATIONS.

§ 158. The board shall prescribe the form of the report required by the railroad law to be made by railroad corporations, and may from time to time make such changes and additions in such form, giving to the corporation six months notice before the expiration of any fiscal year, of any changes or additions which would require any alteration in the method or form of keeping their accounts, and on or before September fifteenth in each year, shall furnish a blank form for such report. When the report of any corporation is defective, or believed to be erroneous, the board shall notify the corporation to amend the same within thirty days. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the board.

See section 57, *Railroad Law, ante*. Also sections 416, 602 and 611, *Penal Code, post*.

INVESTIGATION OF ACCIDENTS.

§ 159. The board shall investigate the cause of any accident on any railroad resulting in loss of life or injury to persons, which in their judgment shall require investigation and include the result thereof in their annual report to the legislature. Before making any such examination or investigation, or any investigation or examination under this article, reasonable notice shall be given to the corporation, person or persons conducting and managing such railroad of the time and place of commencing the same. The general superintendent or manager of every railroad shall inform the board of any such accident immediately after its occurrence. If the examination of the books and affairs of the corporation, or if witnesses in its employ, shall be necessary in the course of any examination or investigation into its affairs, the board, or a commissioner thereof, shall sit for such purpose in the city or town of this state where the principal business office of the corporation is situated if requested so to do by the corporation; but the board may require copies of books and papers, or abstracts thereof, to be sent to them to any part of this state.

RECOMMENDATIONS OF BOARD, WHERE LAW HAS BEEN VIOLATED.

§ 160. If, in the judgment of the board, it shall appear that any railroad corporation has violated any constitutional provision or law, or neglects in any respect to comply with the terms of the law by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not granted by law, or refuses to comply with the provisions of any law, or with any recommendation of the board, it shall give notice thereof in writing to the corporation, and if the violation, neglect or refusal is continued after such notice, the board may forthwith present the matter to the attorney-general, who shall take such proceedings thereon as may be necessary for the protection of the public interests.

RECOMMENDATIONS OF BOARD, WHEN REPAIRS OR OTHER CHANGES ARE NECESSARY.

§ 161. If, in the judgment of the board, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad in the state, or that any addition to the rolling stock, or any addition to or change of the station or station-houses, or that additional terminal facilities shall be afforded, or that any change of the rates of fare for transporting freight or passengers or in the mode of operating the road or conducting its business, is reasonable

and expedient in order to promote the security, convenience and accommodation of the public, the board shall give notice and information in writing to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereof, and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and fails to satisfy the board that no action is required to be taken by it, the board shall fix the time within which the same shall be made, which time it may extend. It shall be the duty of the corporation, person or persons owning or operating the railroad to comply with such decisions and recommendations of the board as are just and reasonable. If it fails to do so the board shall present the facts in the case to the attorney-general for his consideration and action, and shall also report them in its annual or in a special report to the legislature.

LEGAL EFFECT OF RECOMMENDATIONS AND ACTION OF THE BOARD.

§ 162. No examination, request or advice of the board, nor any investigation or report made by it, shall have the effect to impair in any manner or degree the legal rights, duties or obligations of any railroad corporation, or its legal liabilities for the consequence of its acts, or of the neglect or mismanagement of any of its agents or employees. The supreme court at special term shall have power in its discretion, in all cases of decisions and recommendations by the board which are just and reasonable to compel compliance therewith by mandamus, subject to appeal to the general term and the court of appeals, and upon such appeal, the general term and the court of appeals may review and reverse upon the facts as well as the law. (*Thus amended by chap. 676, Laws 1892.*)

CORPORATIONS MUST FURNISH NECESSARY INFORMATION.

§ 163. Every railroad corporation shall, on request, furnish the board any necessary information required by them concerning the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and the condition, management, and operation of its road, and shall, on request, furnish to the board copies of all contracts and agreements, leases or other engagements entered into by it with any person or corporation. The commissioners shall not give publicity to such information, contracts, agreements, leases or other engagements, if,

in their judgment, the public interests do not require it, or the welfare and prosperity of railroad corporations of the state might be thereby injuriously affected.

See section 416, Penal Code, *post*.

ATTENDANCE OF WITNESSES AND THEIR FEES.

§ 164. All subpoenas shall be issued by the president of the board, or by any two members thereof, and may be served by any person of full age authorized by the board to serve the same. The fees of witnesses before the board shall be two dollars for each day's attendance, and five cents for every mile of travel by the nearest generally traveled route in going to and returning from the place where the attendance of the witness is required, and the fees shall be audited and paid by the comptroller on the certificate of the secretary of the commission.

FEES TO BE CHARGED AND COLLECTED BY THE BOARD.

§ 165. The board shall charge and collect the following fees: For copies of papers and records not required to be certified, or otherwise authenticated by the board, ten cents for each folio of one hundred words; for certified copies of official documents filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by a railroad corporation to the board, fifty cents; for each certified copy of the annual report of the board, one dollar and fifty cents; for certified copies of evidence and proceedings before the board, fifteen cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the board in the ordinary course of distribution. All fees charged and collected by the board belong to the people of the state, and shall be paid quarterly, accompanied with a detailed statement thereof into the treasury of the state to the credit of the general fund.

ANNUAL REPORT OF BOARD.

§ 166. The board shall make an annual report on or before the second Monday in January in each year, which shall contain:

1. A record of their meetings and an abstract of their proceedings during the preceding year.
2. The result of any examination or investigation conducted by them.
3. Such statements, facts and explanations as will disclose the

actual workings of the system of railroad transportation in its bearing upon the business and prosperity of the state, and such suggestions as to the general railroad policy of the state, of the amendment of its laws, or the condition, affairs or conduct of any railroad corporation, as may seem to them appropriate.

4. Drafts of all bills submitted by them to the legislature and the reasons therefor.

5. Such tables and abstracts of all the reports of all the railroad corporations as they may deem expedient.

6. A statement in detail of the traveling expenses and disbursements of the commissioners, their clerks, marshal and experts.

Five hundred copies of the report with the reports of the railroad corporations of the state, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth for the use of the commissioners, and to be distributed by them in their discretion to railroad corporations and other persons interested therein.

CERTIFIED COPIES OF PAPERS FILED TO BE EVIDENCE

§ 167. Copies of all official documents filed or deposited according to law in the office of the board, certified by a member of the board or the secretary thereof to be true copies of the originals under the official seal of the board, shall be evidence in like manner as the originals.

ACTS PROHIBITED.

§ 168. No railroad commissioner shall, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such commissioners, or either of them, nor to any clerk or employe of the commissioners or of the board; neither shall the commissioners or either of them, nor their secretary, clerks, agents, employes or experts, accept, receive or request any pass from any railroad in this state, for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation; and the request or acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the commissioner or commissioners, secretary, clerk or clerks, agent or agents, employe or employes, expert or experts, requesting or accepting the same.

See section 417, Penal Code, *post.* Also, section 416, Penal Code, *post.*

SALARIES AND EXPENSES OF MEMBERS AND OFFICERS OF THE BOARD.

§ 169. The annual salary of each commissioner shall be eight thousand dollars; of the secretary, six thousand dollars; of the marshal, fifteen hundred dollars; of the accountant and of the inspector such sum as the board may fix, not exceeding three thousand dollars each; of the clerical force such sums respectively as the board may fix. In the discharge of their official duties, the commissioners, their officers, clerks and all experts and agents whose services are deemed temporarily of importance, shall be transported over the railroads in this state free of charge upon passes signed by the secretary of state, and the commissioners shall have reimbursed to them the necessary traveling expenses and disbursements of themselves, their officers, clerks and experts, not exceeding in the aggregate five hundred dollars per month. All salaries and disbursements shall be audited and allowed by the comptroller, and paid monthly by the state treasurer upon the order of the comptroller out of the funds provided therefor. (*Thus amended by chap. 534, Laws 1892.*)

TOTAL ANNUAL EXPENSE TO BE BORNE BY RAILROADS.

§ 170. The total annual expense of the board authorized by law, excepting only rent of offices and the cost of printing and binding the annual reports of the board as provided by law, shall not exceed sixty thousand dollars; and shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the comptroller who, on or before July first in each year, shall assess upon each of such corporations its proportion of such expenses, one-half in proportion to its net income for the fiscal year next preceding that in which the assessment is made, and one-half in proportion to the length of its main road and branches, except that each corporation whose line of road lies partly within and partly without the state, shall in respect of its net income be assessed on a part bearing the same proportion to its whole net income that the line of its road within the state bears to the whole length of road, and in respect of its main road and branches shall be assessed only on that part which lies within the state. Such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations. (*Thus amended by chap. 456, Laws 1896.*)

APPLICATION OF THIS ARTICLE

§ 171. The provisions of this article shall apply to all railroads within the state, and the corporations, receivers, trustees, directors

or others, owning or operating the same or any of them, and to all sleeping and drawing room car corporations, and to all other associations, partnerships or corporations engaged in transporting passengers or freight upon any such railroad as lessee or otherwise.

§ 172. The railroad commissioners may in their discretion act as judges to award prizes which may be offered by any responsible person for improvements in machinery or appliances for operating railroads. (*This section added by chap. 452, Laws 1894.*)

Sections 180 to 183, both inclusive, were repealed by chap. 676, Laws 1892.

Sections of the Constitution of the State of New York Relating to Railroads.

ARTICLE I.—SECTION 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

ARTICLE III.—SECTION 18. The legislature shall not pass a private or local bill in any of the following cases:

* * * * *

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

* * * * *

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the appellate division of the supreme court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

ARTICLE VII.—SECTION 7. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any cor-

poration, public or private, nor shall the timber thereon be sold, removed or destroyed.

ARTICLE VIII.—SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

ARTICLE XIII.—SECTION 5. No public officer, or person elected or appointed to a public office, under the laws of this state, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the attorney-general. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

Other General Laws Relating to Railroads.

CHAP. 133, LAWS OF 1847.

AN ACT authorizing the incorporation of rural cemetery-associations.

* * * * *

NO STREET, ROAD, AVENUE OR THOROUGHFARE TO BE LAID OUT THROUGH A CEMETERY.

§ 10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessment, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

(Thus amended by chapter 31, Laws of 1877. All the rest of the Act repealed by the Membership Corporation Law.)

CHAP. 62, LAWS OF 1853.

AN ACT to regulate the construction of roads and streets across railroad tracks.

LAYING OUT STREETS OR HIGHWAYS ACROSS RAILROAD TRACKS.

SECTION 1. It shall be lawful for the authorities of any city, village or town in this state, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

**RAILROAD CORPORATIONS TO CAUSE STREET LAID OUT
ACROSS THEIR TRACK TO BE TAKEN AT MOST CONVEN-
IENT PLACE FOR PUBLIC TRAVEL**

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavation and other work to be done on their road for that purpose; and all the provisions of the act, passed April second, eighteen hundred and fifty, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

PENALTY FOR NEGLECT OR REFUSAL

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of twenty dollars for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

This act has been repealed by the provisions of the grade crossing law, sections 60-69 of the Railroad Law. (158 N. Y. p. 410.)

CHAP. 228, LAWS OF 1857.

AN ACT in relation to the payment of fare upon the New York Central Railroad.

SECTION 1. The New York Central Railroad Company, at every station on its road where a ticket office is now or may hereafter be established, shall keep the same open for the sale of tickets at least one hour prior to the departure of each passenger train from such station; but nothing herein contained shall require said company to keep such office open between nine o'clock P. M. and five o'clock A. M., except at Albany, Schenectady, Utica, Syracuse, Rochester, Buffalo and Suspension Bridge, which shall be kept open as hereinbefore required between five o'clock A. M. and eleven o'clock P. M.

§ 2. If any person shall at any station, where a ticket office is established and open, enter the cars of said company, as a passenger thereon, without having first purchased a ticket for that purpose, it shall be lawful for the said company to demand and receive from such person a sum not exceeding five cents in addition to the usual rate of fare for the distance such person may desire to be transported.

CHAP. 474, LAWS OF 1855.

AN ACT for the protection of emigrants, second-class, steerage and deck passengers.

SECTION 1. It shall be the duty of all companies, associations and persons, hereafter undertaking to transport or convey, or engaged in transporting or conveying, by railroad, steamboat, canal boat or propeller, any immigrant, second-class, steerage or deck passenger from the city, bay, or harbor of New York, to any point or place, distant more than ten miles therefrom, or from the cities of Albany, Troy and Buffalo, the town or harbor of Dunkirk, or the Suspension Bridge, to any other place or places, to deliver to the mayors of the city of New York, Albany, Troy and Buffalo, on or before the first day of April in each and every year, a written or printed statement of the price or rates of fare to be charged by such company, association or person, for the conveyance of such immigrant, second-class, steerage and deck passengers respectively, and the price per hundred pounds for the carriage of the luggage, and the weight of luggage to be carried free, of such passengers from and to each and every place, from and to which any such company, association, or person shall undertake to transport and convey such passengers; and such prices or rates shall not exceed the prices and rates charged by the company, association or person, after the time of delivering such statement to the said mayors, and such statement shall also contain a particular description of the mode and route by which such passengers are to be transported and conveyed, specifying whether it is to be by railroad, steamboat, canal boat or propeller, and what part of the route is by each, and also the class of passage, whether by immigrant trains, second-class, steerage or deck passage. In case such companies, association or person shall desire thereafter to make any change or alteration in the rates or prices of such transportation and conveyance, they shall deliver to said mayors respectively a similar statement of the prices and rates as altered and changed by them; but the rates and prices so changed and altered shall not be charged or received until five days after the delivery of the statement thereof to the said mayors respectively.

§ 2. Every ticket, receipt or certificate which shall be made or issued by any company, association or person, for the conveyance of any immi-

grant, second-class, steerage or deck passengers, or as evidence of their having paid for a passage, or being entitled to be conveyed from either or any of the points or places in the first section of this act mentioned to any other place or places, shall contain or have endorsed thereon a printed statement of the names of the particular railroad or railroads, and of the line or lines of steamboats, canal boats and propellers, or of the particular boats or propellers, as the case may be, which are to be used in the transportation and conveyance of such passengers, and also the price or rate of fare charged or received for the transportation and conveyance of any such passenger or passengers with his or their luggage.

§ 3. It shall not be lawful for any person or persons to demand or receive, or bargain for the receipt of any greater or higher price or rate of fare for the transportation and conveyance of any such immigrant, second-class, steerage or deck passengers with their luggage, or either, from either or any of the points or places in the first section of this act mentioned, to any other point or place, than the prices or rates contained in the statements which shall be delivered to the mayors of the cities of New York, Albany, Troy and Buffalo, and said commissioners, respectively, as in the said first section provided for, or the price or rates which shall be established and fixed for the transportation and conveyance of such passengers and their luggage, or either by the proprietors or agents of the line or lines, or means of conveyance, by which such passenger or passengers and their luggage are to be transported or conveyed. In all cases each immigrant over four years of age conveyed by railroad shall be furnished with a seat with permanent back to the same, and when conveyed by steamboat, propeller or canal boat, shall be allowed at least two and one-half feet square in the clear on deck. Such deck shall be covered and made water tight overhead, and shall be properly protected at the outsides, either by curtains or partitions, and shall be properly ventilated.

§ 4. Any company, association, person or persons violating or neglecting to comply with any of the provisions of the first or second sections of this act shall be liable to a penalty of two hundred and fifty dollars for each and every offense, to be sued for and recovered in the name of the people of this state.

* * * * *

See section 626, Penal Code, *post*.

CHAP. 590, LAWS OF 1872.

AN ACT to regulate processions and parades in the cities of the state of New York.

NO PROCESSION OR PARADE TO INTERFERE WITH FREE PASSAGE OF CARS UPON STREET RAILWAYS.

SECTION 1. No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said

procession which in so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed. * * * * *

PENALTY.

§ 4. Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding twenty dollars, or imprisonment not exceeding ten days, or both, at the discretion of the court.

See section 426, Penal Code, *post*.

CHAP. 392, LAWS OF 1875.

AN ACT for the better security of railroad employes for labor performed.

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PERSONAL LIABILITY OF STOCKHOLDERS; NOTICE; TIME FOR COMMENCING ACTION.

§ 8. Each and all the stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days' service, or less than ninety days' service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part-against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days' service, or less than ninety days' service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

CHAP. 508, LAWS OF 1875.

AN ACT to amend section third of title four of chapter eight of part third of the revised statutes.

§ 3. In suits brought by or against a corporation created by or under any statute of this state, it shall not be necessary to prove on the trial of

the cause the existence of such corporation, unless the defendant shall have alleged in the answer in the action that the plaintiffs or defendants, as the case may be, are not a corporation, nor unless the allegations in the answer that the defendant is not a corporation be verified under oath in the manner provided by law for the verification of pleadings in actions in courts of record.

CHAP. 134, LAWS OF 1878.

AN ACT in relation to infectious and contagious diseases of animals.

(So much of section two of said act as is applicable to railways.)

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To order all or any animals coming into the state to be detained at any place or places for the purpose of inspection and examination.

To prescribe regulations for the destruction of animals affected with infectious or contagious disease, and for the proper disposition of their hides and carcasses, and of all objects which might convey infection or contagion, provided that no animal shall be destroyed unless first examined by a medical or veterinary practitioner in the employ of the governor as aforesaid.

To prescribe regulations for the disinfection of all premises, buildings, boats and railway cars, and of all objects from or by which infection or contagion may take place or be conveyed.

To alter and modify from time to time, as he may deem expedient, the terms of all such proclamations, orders and regulations, and to cancel or withdraw the same at any time. (*As am'd by chap. 286, Laws 1888.*)

CHAP. 317, LAWS OF 1881.

AN ACT to authorize a change in certain cases, of the time for holding elections in railroad companies.

COMPANIES MAY CHANGE TIME FOR HOLDING ELECTIONS.

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may, by a vote of a majority of the stock, either in person or by proxy thereof to that effect, and filing in the office of the secretary of state a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April; provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

CHAP. 452, LAWS OF 1881.

AN ACT to authorize corporations owning canals to construct and operate railroads alongside of or in lieu thereof.

CORPORATION OWNING CANAL MAY CONSTRUCT RAILROAD.

SECTION 1. It shall be lawful for any corporation of this state owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

CORPORATE POWERS.

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

NOT AUTHORIZED TO CONSTRUCT RAILROAD IN ANY OTHER LOCALITY.

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

CHAP. 378, LAWS OF 1883.

AN ACT in relation to receivers of corporations.

APPLICATION FOR APPOINTMENT OF RECEIVER, WHERE MADE

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation, other than applications made by the attorney-general on behalf of the people of the state, shall be made at a special term of the supreme court, held in and for the judicial district in which the principal business office of the corporation is located; and all such applications made by the attorney-general shall be made in the judicial district in which the action in which the appointment is sought is triable; and any action or proceeding hereafter brought by the attorney-general on behalf of the people of the state against any corporation for the purpose of procuring its dissolution, the appointment of a receiver, or the

sequestration of its property, may be brought in any county of the state, to be designated by the attorney-general. (*Thus amended by chap. 282, Laws of 1896.*)

COMPENSATION.

§ 2. Every receiver shall be allowed to receive, as compensation for his services as such receiver, five per centum for the first \$100,000 received and paid out, and two and a half per centum on all sums received and paid out in excess of the said \$100,000. But no receiver shall be allowed or shall receive, from such percentages or otherwise, for his services for any one year, any greater sum or compensation than \$12,000, nor for any period less than one year more than at the rate of \$12,000 per year, provided that where more than one receiver shall be appointed, the compensation herein provided shall be divided between such receivers. (*Thus amended by chap. 275, Laws 1886.*)

ORDER APPOINTING RECEIVER TO DESIGNATE PLACE OF DEPOSIT.

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the attorney-general.

DUTIES OF RECEIVER.

§ 4. It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the supreme court, held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of such six months, and to file a copy of the same, if a receiver of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance; and in each case with the attorney-general, an account exhibiting in detail the receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any

costs, fees or allowances until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court, by an order of the court duly entered; and any such order shall be the subject of review by the appellate division and the court of appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the attorney-general, and also the surety or sureties on the official bond of such receiver, shall be given eight days' notice in writing; and the attorney-general shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap. 139, Laws of 1896.*)

INTERVENOR TO PAY HIS OWN LEGAL EXPENSES; NO ALLOWANCE TO BE MADE FOR COSTS TO ATTORNEYS.

§ 5. In case of the intervention of any policy holder or depositor, by permission of the court, such policy holder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policy holder or depositor.

RECEIVER TO CLOSE UP AFFAIRS WITHIN ONE YEAR.

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the attorney-general, shall give additional time for that purpose.

ATTORNEY-GENERAL MAY APPLY TO HAVE RECEIVER REMOVED; APPEAL.

§ 7. The attorney-general may, at any time he deems that the interests of the stockholders, creditors, policyholders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the supreme court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

COPIES OF ALL PAPERS TO BE SERVED ON ATTORNEY-GENERAL.

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purposes shall, in all cases, be served on the attorney-general, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order unless the attorney-general shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the attorney-general, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the attorney-general.

APPLICATIONS UNDER THIS ACT; WHERE TO BE MADE; VENUE CHANGED.

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the corporation against which proceedings are taken is located, excepting such applications as are made in actions brought by the attorney-general on behalf of the people of the state, and all such applications shall be made in the judicial district in which the action is triable. (*Thus amended by chap. 282, Laws of 1896.*)

PREFERENCE ON CALENDAR

§ 10. All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

REPEAL

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 285, LAWS OF 1884.

AN ACT to provide for the transfer of securities and property by bankrupt corporations to the receivers of such corporations, and for the transfer by the superintendent of the insurance department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such superintendent by such companies for the security of policyholders.

WHERE RECEIVERS HAVE OR SHALL BE APPOINTED FOR ANY CORPORATION OTHER THAN AN INSURANCE COMPANY ON APPLICATION BY ATTORNEY-GENERAL, PROPERTY TO VEST IN RECEIVER; PROVISIO.

SECTION 1. In all cases where receivers have been or shall be appointed for any corporation of this state other than an insurance company, on application by the attorney-general, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in, and held by such receiver, provided, however, that such transfer shall only be made when directed by an order of the supreme court, due notice of the application for such order having been made on the attorney-general, and the custodian of the funds, securities, or property.

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CHAP. 490, LAWS OF 1885.

AN ACT concerning tramps.

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PENALTY FOR ENTERING BUILDING WITHOUT CONSENT.

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount

to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglars' tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the state prison, shall be deemed guilty of felony, and on conviction shall be punished by imprisonment in the state prison at hard labor for not more than three years.

See sections 887a and 889, Code of Criminal Procedure, *post*.

CHAP. 310, LAWS OF 1886.

AN ACT to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

DUTY OF ATTORNEY-GENERAL.

SECTION 1. Whenever any corporation organized under the laws of this state shall be annulled and dissolved by an act of the legislature, it shall be the duty of the attorney-general immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

SUIT, WHERE TO BE BROUGHT.

§ 2. Such suit shall be brought in the supreme court in the name of the people of the state, in any county which the attorney-general may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annulment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

COURT TO APPOINT RECEIVER

§ 3. It shall be the duty of the special term of the supreme court in the county designated in such summons and complaint, or of any judge of said court who resides in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed

shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties, to be approved by said court or such judge thereof, to the people of the state in the penalty of not less than \$10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

RECEIVER TO MAKE INVENTORY.

§ 4. Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

NOTICE TO CREDITORS; POWERS AND DUTIES OF RECEIVERS; CREDITORS TO PRESENT CLAIMS.

§ 5. The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice

daily for fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court, or such judge thereof, will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same, together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged to be bound by such instrument or paper, and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, offset or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

WHEN CLAIM OF CREDITOR IS DEBARRED; RIGHT OF CREDITOR TO APPEAL; SALE OF PROPERTY; ALLOWANCE TO RECEIVER; DISTRIBUTION OF ASSETS.

§ 6. All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals

from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for. The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereof shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof shall allow to the receiver two per cent. upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpoenas, and to the attorney-general, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the deductions above provided for in case of an appeal, pro rata, or in full if such residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

PROCEEDINGS NOT TO BE STAYED.

§ 7. No issue raised by answer, or demurrer, or otherwise, to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court or a judge thereof.

DISCHARGE OF RECEIVER

§ 8. The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so dis-

charged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

SUBPŒNAS, BY WHOM ISSUED ; RECEIVER MAY ADMINISTER OATHS ; FALSE SWEARING, PERJURY.

§ 9. It shall be the duty of the clerk of the county in which such suit is brought, to issue, upon the request of the receiver, subpœnas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpœnas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpœnas shall be a contempt of court, and shall be punished in like manner as other contempt of court are now punishable. Willful false swearing by any witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

LEAVE TO SUE RECEIVER, HOW AND WHERE OBTAINABLE

§ 10. All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the supreme court in the county in which such action was brought, and shall not be made to any other court, or to the supreme court in any other county, and shall not be granted except upon eight days' notice to the attorney-general of the time and place of making such application. In any action hereafter brought or now pending by the attorney-general, to close up, determine, or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the supreme court at general term may be reviewed upon appeal to the court of appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap. 601, Laws of 1887.*)

REPEAL, ETC.

§ 11. This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

CHAP. 38, LAWS OF 1889. .

AN ACT to regulate the payment of fares upon railroads.

EXTRA FARE MAY BE EXACTED WHEN NO TICKET IS PURCHASED; REBATE TICKET TO BE ISSUED THEREFOR.

SECTION 1. It shall be lawful for any company owning or operating a steam railroad in this state to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this state; provided, however, that it shall be the duty of such company to give to any passenger paying such excess a receipt or other evidence of such payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded upon the delivery of the same at any ticket office of said company, upon the line of their railroad, and said company shall refund the same upon demand; and provided, further, that this act shall not apply to any passenger taking passage from a station or stopping place when tickets cannot be purchased during half an hour previous to the schedule time for the departure of said train on which such passenger takes passage.

CHAP. 555, LAWS OF 1890.

AN ACT to provide for the improvement and maintenance of the public roads in certain counties as county roads.

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CONSTRUCTION OF HORSE, ELECTRIC OR OTHER RAILWAYS.

§ 7. No horse railway or electric or other railway shall be laid, constructed or operated on said county roads, unless, in addition to the requirements of existing laws, the same shall be authorized by a two-third vote of the board of supervisors and unless the same shall be constructed with a flat or grooved rail, and in case of horse railways, paved between the tracks in the manner prescribed by the board of supervisors in the resolution authorizing the same, and the same constantly maintained in good order and condition by said railroad company, and the railroad or corporation constructing the same shall agree thereto, and it shall be the duty of the said board of supervisors to require from said railroad or corporation, or other person, a bond with sufficient sureties as a guarantee, and conditioned for the performance of their agreement, and the board of supervisors may, from time to time, require such bond to be renewed in case the sureties, or any of them, in its judgment, shall become insufficient.

CHAP. 566, LAWS OF 1890.

AN ACT in relation to transportation corporations, excepting railroads,
constituting chapter forty of the general laws.

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CROSSINGS.

§ 33. Whenever any tramway, constructed by any such corporation, shall cross a railroad, highway, turnpike, plank-road or canal, such tramway shall be so constructed as not to interfere with the free use of such railroad, highway, turnpike, plank-road or canal for the purposes for which they were intended.

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RAILROAD, TURNPIKE, PLANK-ROAD AND HIGHWAY CROSSINGS.

§ 43. Whenever any line of pipe of any such corporation shall necessarily cross any railroad, highway, turnpike or plank-road, such line of pipe shall be made to cross under such railroad, highway, turnpike or plank-road and with the least injury thereto practicable, and unless the right to cross the same shall be acquired by agreement, compensation shall be ascertained and made to the owners thereof, or to the public in case of highways, in the manner prescribed in the condemnation law, but no exclusive title or use shall be so acquired as against any railroad, turnpike or plank-road corporation, nor as against the rights of the people of this State in any public highway, but the rights acquired shall be a common use of the lands in such manner as to be of the least practical injury to such railroad, turnpike or plank-road consistent with the use thereof by such pipe line corporation, nor shall any such corporation take or use any lands, fixtures or erections of any railroad corporation, or have the right to acquire by condemnation the title or use, or right to run along or upon the lands of any such corporation, except for the purpose of directly crossing the same when necessary.

The Highway Law.

CHAP. 568, LAWS OF 1890.

AN ACT in relation to highways, constituting chapter nineteen of the general laws.

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GENERAL DUTIES OF OVERSEERS.

SECTION 20. Each overseer of highways in every town shall

1. Repair and keep in order the highways within his district.
2. Warn all persons and corporations assessed to work on the highways in his district, to come and work thereon.
3. Cause the noxious weeds within the bounds of the highway within his district, to be cut down or destroyed twice in each year, once before the first day of July, and again before the first day of September; and the requisite labor therefor shall be considered highway work.
4. Collect all fines and commutation money, and execute all lawful orders of the commissioners.
5. Cause all loose stone lying in the beaten track of every highway within his district, to be removed once in every month, from the first day of April until the first day of December, in each year. Stones so removed shall not be thrown into the gutter, nor into the grass adjoining such highways, but they shall be conveyed to some place, from which they will not work back or be brought back into the track by the use of road machines or other implements used in repairing such highways. (*Thus amended by chap. 352, Laws of 1898.*)
6. Cause the monuments erected or to be erected, as the boundaries of highways, to be kept up and renewed, so that the extent of such highway boundaries may be publicly known.

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§ 62. Every person and corporation shall work the whole number of days for which he or it shall have been assessed, except such days as shall be commuted for, at the rate of one dollar per day, and such commutation money shall be paid to the overseers of the highways of the district in which the labor shall be assessed, within at least twenty-four hours before the time when the person or corporation is required to appear and work on the highways; but any corporation must pay its commutation money to the commissioners of highways of the town, who shall pay the same to the overseers of the districts, respectively, in which the labor commuted

for was assessed except in the counties of Rensselaer, Chemung, Onondaga, Columbia, Otsego, Chautauqua, Chenango, Madison, Wayne, Erie, Franklin, Sullivan, Tioga, Saratoga, Broome, Orange and Ontario, where such commutation money shall be paid on or before the first day of June of each year to the commissioner or commissioners of highways of the town in which the labor shall be assessed, and such commutation money shall be expended by the commissioner or commissioners of highways upon the roads and bridges of the town as may be directed by the town board. (*Thus amended by chap. 345, Laws 1899.*)

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NOXIOUS WEEDS IN HIGHWAY.

§ 70. Every person or corporation, owning or occupying, under a lease for one or more years, any lands, abutting upon any highway, shall cause all noxious weeds, briars and brush growing upon such lands within the bounds of the highway, to be cut or destroyed between the fifteenth day of June and the first day of July, and between the fifteenth day of August and the first day of September, in each and every year; but boards of supervisors may fix a different period or periods, for such cutting or destruction in their respective counties. No person shall place or cause to be placed, any noxious weeds, or the seeds of such weeds, within the bounds of any public highway. Any willful violation of this section, shall subject the person or corporation so offending to a penalty of ten dollars for each offense. (*Thus amended by chap. 681, Laws 1899.*)

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DAMAGES ASSESSED, AND COSTS TO BE AUDITED.

§ 93. All damages to be agreed upon, or which may be finally assessed, and costs against the town, as herein provided, shall be laid before the board of town auditors, or in towns not having a board of town auditors, before the town board, to be audited with the charges of the commissioners, justices, surveyors or other persons or officers employed in making the assessment, and for whose services the town shall be liable, and the amount shall be placed upon the town abstract and levied and collected in the town in which the highway is situated, and the money so collected shall be paid to the commissioners of highways of such town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges aforesaid. (*Thus amended by chap. 106, Laws of 1898.*)

CHAP. 267, LAWS OF 1891.

AN ACT to authorize change of gauge on railroads and to provide for an increase of floating and bonded indebtedness.

SECTION 1. Any railroad company incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and acts amendatory thereof and supplementary thereto, may change the gauge of its road on consent of the board of railroad commissioners and approval of the stockholders of said railroad company owning three-fourths in amount of the* capital stock, said approval of said stockholders to be made at a special meeting of the stockholders of said company called for that purpose; and upon like consent of said board of railroad commissioners, and upon like approval of the stockholders of said railroad company owning three-fourths in amount of the said capital stock of said company, the floating and bonded indebtedness of said railroad company may be increased to an amount necessary to make such change of gauge and to provide for the operating expenses of said railroad, notwithstanding restrictions or limitations contained in the original certificate of incorporation of said railroad company.

CHAP. 294, LAWS OF 1891.

AN ACT in relation to elevated railways in cities.

**WHEN ELEVATED ROAD MAY ABANDON PART OF ITS ROUTE;
PROCEEDINGS IN SUCH CASE.**

SECTION 1. Any company operating an elevated railway or railways in any city of this state for the transportation of passengers, mails or freight, and which, prior to the passage of this act shall have built and operated six-tenths of its route as set forth and embodied in its articles of incorporation, may declare relinquished* and abandoned any portion of its said route, which it may deem no longer necessary for the successful operation of its road and the convenience of the public. Such declaration of abandonment, to be valid, shall be adopted by the board of directors, under the seal of such company, and shall be submitted to the stockholders thereof at a meeting called for the purpose of taking the same into consideration. Due notice of the time and place of holding said meeting, and stating the object thereof shall be given by the company to its stockholders by written or printed notices addressed to each of the persons in whose name the capital stock of the company stands on the books thereof, at the address of such persons as stated on

* So in the original.

the books, or as known to the secretary of the company, and delivered or mailed to such persons or legal representatives of such persons, respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws or of judicial proceedings and legal notices in the county where the route of such company is located; and at the said meeting of stockholders the declaration of the said directors shall be considered and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of the stockholders cast in person or by proxy at said meeting shall be for the adoption of said declaration of abandonment, then that fact shall be certified thereon by the secretary of the company under the seal thereof, and the declaration so adopted shall be submitted for approval to the state board of railroad commissioners; and if approved by them, such approval shall be endorsed thereon, and the said declaration so certified and endorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing such portion of said route designated, in such declaration of such company shall be deemed to be abandoned. A copy of such declaration of abandonment, duly certified by the secretary of state, under his official seal, shall be presumptive evidence in all courts and places of the facts which it recites, and of the regularity of the proceedings resulting in such abandonment.

CHAP. 360, LAWS OF 1891.

AN ACT to confer upon the board of railroad commissioners of the state of New York authority to compel the lighting and ventilation of all tunnels within this state which are used by steam railroads.

SECTION 1. The board of railroad commissioners of the state of New York are hereby authorized, empowered and given full and complete authority to require and compel all tunnels used or to be used by railroads operated by steam in this state to be properly ventilated in such manner and by such means and mechanical appliances as said board of railroad commissioners, or a majority of the same, may direct.

§ 2. The board of railroad commissioners, of this state are also hereby authorized, empowered and given full and complete authority to require and compel all tunnels used, or to be used by railroads operated by steam in this state, to be properly lighted by electricity

or otherwise, or by such means or in such manner as said board of railroad commissioners, or a majority of the same, may direct.

§ 3. Whenever said board of railroad commissioners of this state, or a majority thereof, shall cause to be personally served upon any railroad corporation controlling any tunnel, or part of a tunnel, in this state for the purpose of operating a railroad or moving, hauling or propelling cars therein by steam by delivering a copy personally to the president, general manager or any director of said corporation of a notice or order, signed by a majority of said board of railroad commissioners, stating and specifying the structures to be erected, the manner, means, mechanical appliance and apparatus to be used in lighting or ventilating any tunnel or tunnels used by said corporation for the purpose of moving, hauling or propelling cars by steam therein as aforesaid, said corporation shall, within thirty days from and after the service of said notice or order as aforesaid, cause said tunnel or tunnels so used by it as aforesaid to be lighted or ventilated, or both, in the manner and by the means and use of the mechanical apparatus and appliances specified and pointed out in said notice or order.

§ 4. After the expiration of thirty days from the service of said order or notice specified in the proceeding section, as therein directed, if said corporation shall not have fully complied with the provisions and requirements of said notice or order as aforesaid and as therein directed and required, said board of railroad commissioners, or a majority of said board, may apply to the supreme court of this state for a writ of mandamus to compel said corporation or corporations so neglecting or refusing to obey and comply with the provisions of said order or notice to comply with and obey the provisions and requirements of said notice or order, and said court shall have full power and authority to hear and determine said matter, and, after giving the corporation or corporations proceeded against an opportunity to be heard in its or their defense, to compel said corporation or corporations so proceeded against to obey said order or notice, and forthwith comply with and carry out the provisions and requirements therein contained.

§ 5. Every corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and may be indicted therefor, and may be compelled to appear and plead to an indictment therefor in the person of its president, secretary, treasurer or any director thereof, and a bench warrant may issue out of any competent court to compel such attendance and pleading, and upon conviction thereof, punished by a fine of one thousand dollars, and an additional fine

of five hundred dollars a day for each and every day or part of a day after thirty days from the due service of said notice or order that said corporation shall refuse or neglect to obey and carry out the requirements and provisions of the same, and duly sentenced to pay the same.

§ 6. It shall be the duty of the district attorney prosecuting any corporation for a violation of any of the provisions of this act, that shall be convicted thereof and sentenced to pay a fine therefor, to cause a judgment-roll to be made up, consisting of the indictment orders and sentence of the court and a formal judgment, to be prepared by him, which judgment shall be duly signed by the clerk of the county in which said trial took place ; said judgment-roll shall be filed by said county clerk and said judgment shall be duly recorded in the book of judgments in said county and duly entered and docketed by said county clerk in said county the same as if said judgment had been obtained in a civil action, and said judgment so duly entered and docketed shall become and be a lien upon all of the real estate of said corporation against which the same is obtained, and the collection thereof may be enforced by execution to be issued and signed by the district attorney of the county where the trial of said indictment took place, in the same manner and to the same extent as executions are collected in civil action.

§ 7. In cities in this state having a population of one million inhabitants or over, where tunnels are or may hereafter be operated or controlled by any railroad corporation such portions of any mechanical or other devices or appliances as may be required under the provisions of this act to be constructed on or above the surface of any streets, avenues or other places under which such tunnels may be built, shall be subject as to form, material and construction, to the approval of the local authorities of such cities, except that in the city of New York such approval shall be by a majority vote of the mayor, the comptroller, the commissioner of public works and the president of the department of public parks of said city.

CHAP. 488, LAWS OF 1892.**FISHERIES, GAME AND FOREST LAW, CONSTITUTING
CHAPTER 31 OF THE GENERAL LAWS, AS AMENDED
TO AND INCLUDING THE SESSION OF THE LEGISLA-
TURE OF 1897.**

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TRANSPORTATION.

§ 46. Deer or venison killed in this state shall not be transported to any point within or without the state from or through any of the counties thereof or possessed for that purpose, except as follows: One carcass or a part thereof may be transported from the county where killed when accompanied by the owner. No individual shall transport or accompany more than two deer in any one year under the above provision. The possession of deer or venison by a common carrier, or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. This section does not apply to the head and feet or skin of deer severed from the body. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor, and in addition thereto shall be liable to a penalty of one hundred dollars for each wild deer or part thereof, had in possession in violation of this section.

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WOODCOCK, QUAIL AND GROUSE, WHEN NOT TO BE TRANSPORTED.

§ 76. Woodcock, ruffed grouse, commonly known as partridge, or any member of the grouse family, or quail shall not be transported from any one point to another point within or without the state from or through any of the counties thereof, or possessed for that purpose, nor from a less distance than twenty-five miles from the state line outside of this state to be transported into this state in the open season for transportation, except that such birds may be transported from the county where killed or through any of the counties of this state from one point to another point when accompanied by the actual owner thereof. Provided, however, that no person, association or company shall transport or accompany more than thirty-six of woodcock or thirty-six grouse under the above provisions in any calendar year, nor more than twelve of either kind at any one time. Possession of the birds named by any person or by a common carrier or by any person in its employ

then actually engaged in the business of such common carrier, corporation or company unaccompanied by the actual owner thereof, shall constitute a violation of this section by such person, common carrier, corporation, association or company. And while such birds are being transported, no common carrier or person in the employ of a common carrier transporting such birds shall be the owners thereof. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor, and in addition thereto shall be liable to a penalty of twenty-five dollars for each and every bird caught, killed, trapped, snared, or possessed, transported or had in possession for transportation contrary to the provisions of this section.

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CERTAIN FISH NOT TO BE TRANSPORTED.

§ 109. Trout of any kind, salmon trout or land-locked salmon, caught in any of the inland waters of this state, shall not be transported to any point within or without the state from or through any of the counties thereof, or possessed for that purpose, except when accompanied by the actual owner, and such owner shall not accompany, carry or transport at any time more than twelve pounds of brook, brown, and rainbow trout. Possession thereof by any person, common carrier, or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the actual owner, shall constitute a violation of this section by such person or common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of a misdemeanor and in addition thereto shall be liable to a penalty of sixty dollars for each violation thereof. *(Thus amended by chap. 325, Laws 1899.)*

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EXCEPTIONS AS TO ST. LAWRENCE AND WARREN COUNTIES.

§ 140. It shall be lawful to fish at any time for perch, suckers and bullheads, and to spear such fish through the ice in any of the streams, ponds or lakes in Warren county, excepting that in Schroom lake, Long pond or Glen lake and Lake George, the use of spears is forbidden. No fish of any kind, except suckers and billfish or gar-pikes, shall be caught in Black lake, in Saint Lawrence county, or in waters tributary to said lake, or in the Oswegatchie river, from the boundaries of the city of Ogdensburg to the village of Heuvelton, except from the first day of May to the fifteenth day of November, both inclusive. Nothing herein contained shall be construed as prohibiting the catching of fish by angling at any time, nor the use of tip-ups in fishing through the ice, in the waters of Black lake, in Saint Lawrence county. No transportation company in Saint Lawrence or Jefferson counties shall transport any fish caught contrary to the provisions of this section, and when fish at any time are

offered such company for transportation, they may at their option refuse to accept the same until satisfactory proof is furnished that they were not caught in violation of law. Possession thereof by a common carrier, or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be guilty of a misdemeanor and in addition thereto shall be liable to a penalty of one hundred dollars for each violation thereof. (*Thus amended by chap. 600, Laws of 1898.*)

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TAKING OYSTERS FROM HUDSON RIVER FOR REPLANTING.

§ 187. Oysters shall not be taken from the Hudson river north of the county of New York at any time for the purpose of conveying them to another state to have them replanted. Whoever shall violate or attempt to violate the provisions of this section shall be guilty of misdemeanor and in addition thereto shall be liable to a penalty of twenty-five dollars for each violation thereof.

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ACTIONS, HOW ENTITLED.

§ 230. All penalties imposed by this act may be sued for and recovered in the name of "The People of the State of New York."

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DUTIES OF RAILROAD COMPANIES.

§ 275. Every railroad company whose road passes through waste or forest lands or lands liable to be overrun by fires within the state, shall twice in each year cut and remove from its right of way all grass, brush or other inflammable materials, but under proper care and at proper times when fire, if set, can be kept under control. All locomotives which run through forest lands shall be provided with approved and sufficient arrangements for preventing the escape of fires from their furnaces or ashpans, and with netting of steel or iron wire upon their smoke stacks to prevent the escape of sparks of fire, and every engineer and fireman employed upon a locomotive shall see that the appliances to prevent the escape of fire are in use and applied as far as it can be reasonably and practically done. No railroad company shall permit its employes to deposit fire coals or ashes upon their track in the immediate vicinity of wood lands, or lands liable to be overrun by fires, and where any engineers, con-

ductors or trainmen discover that fences or other material or substances along the right of way upon wood lands adjacent to the railroad are burning, or in danger from fire, they shall report the same at their next stopping place, and the person in charge of such station shall take prompt measures to extinguish such fires and shall immediately notify the nearest firewarden or fish and game protector and forester. In seasons of drought and especially during the first dry time in the spring after the snows have gone, and before vegetation has revived, railroad companies shall employ a sufficient number of trackmen for the prompt extinguishment of fires; and where a forest fire is raging near the line of their road they shall concentrate such help and adopt such measures as shall most effectually arrest its progress. If any railroad company or any of its employes violate any provision of this section the company shall forfeit to the people of the state the sum of one hundred dollars for every such violation.

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FALLOW FIRES.

§ 281. It shall be unlawful for any person to light fires for the purpose of clearing land, burning fallows, stumps, logs or fallen timber, in the towns hereinafter specified in this section, between April first and June tenth, and between September first and November tenth; but from June tenth to September first such fires may be started upon giving three days' notice to a fire warden or district fire warden and securing his written permission. During the period last mentioned, if the place where the fire is to be lighted is near any woodlands or forest which might possibly be endangered by lighting such fire, it shall be the duty of the town fire warden or district fire warden to be present personally when the fire is lighted, and the fire warden or district fire warden thus in attendance shall not permit the starting of any fallow fires, or brush fires, or fires for clearing land, during a dangerous wind, nor until the person desirous of starting such fires shall have employed at his own expense a sufficient number of persons to watch and prevent any possible spreading of the flames, and who shall remain on watch until the fire is out and completely extinguished. The services of a fire warden or district fire warden at such times shall be a town charge, the same as when employed in extinguishing a forest fire; and one-half of the expense thus incurred by the town may be refunded by the comptroller of the state as hereinbefore provided in case of forest fires. Any person violating the requirements of this section by lighting fallow fires or fires for clearing land otherwise than as herein provided, shall be guilty

of a misdemeanor, and in addition thereto shall be liable to a fine of not less than fifty dollars nor more than three hundred dollars, one-half of which amount shall be paid to the person or persons furnishing the evidence necessary to conviction. The provisions of this section shall apply to Hamilton county, and to the towns of Minerva, Newcomb, North Hudson, Schroon, Keene, Jay, Lewis, North Elba, Saint Armand, and Wilmington, of Essex county; to the towns of Waverly, Harriets-town, Brandon, Santa Clara, Brighton, Belmont, Franklin, Duane and Altamont, of Franklin county; to the towns of Hopkinton, Colton, Clifton, Fine, Edwards, Pitcairn, Clara, Russell, and Parishville, of Saint Lawrence county; to the town of Diana, Croghan, Watson, Creig, and Lyonsdale, of Lewis county; to the towns of Wilmurt, Ohio, Salisbury, Remson, and Russia, of Herkimer county; to the town of Forestport in Oneida county; to the towns of Stratford, Caroga, Bleecker, and Mayfield, of Fulton county; to the towns of Day, Edinburgh, Hadley, and Corinth, of Saratoga county; to the towns of Johnsburgh, Thurman, and Stony Creek, of Warren county; to the towns of Putnam, Dresden, and Fort Ann, of Washington county; to the towns of Altona, Danemora, Ellenburgh, Saranac, and Black Brook, of Clinton county; to the towns of Denning, Hardenburgh, Shandaken, Olive, Rochester, Wawarsing, and Woodstock, of Ulster county; to the towns of Neversink and Rockland, of Sullivan county; to the towns of Andes, Colchester, Hancock, and Middletown, of Delaware county; and to the towns of Hunter, Jewett, Lexington, and Windham, of Greene county.

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DEFINITIONS.

§ 301. Words and phrases under this act, and in proceedings pursuant thereto, shall, unless inconsistent with the context, mean or include as follows:

1. "Person" shall include persons, copartnerships, joint-stock companies and corporations, and when used with reference to commission of acts which are herein forbidden, shall include persons particeps criminis in the acts, and the officers, agents and directors or trustees and similar controlling body of corporations.

2. Words importing masculine gender may apply to copartnerships, females, joint-stock companies and corporations.

3. Words importing the plural number may import the singular number.

4. Words importing the singular number may extend to and be applied to several persons or things.

5. "Angling" is defined to mean taking fish with hook and line and by rod held in hands, and does not include set lines. In fishing from boats, rods and lines not exceeding two in number may be used by any one person.

6. "Exclusive right to shoot, hunt or fish" is defined to mean the right of any person owning or having the right to the possession of the premises, or of any person leasing or reserving the exclusive right to shoot, hunt or fish thereon from the owner.

7. "Commission," "commissioners" or "board of commissioners," as used in this chapter, shall be construed to mean the commissioners of fisheries, game and forest.

8. "Article," when standing alone in this act, shall be construed to refer to one of the articles hereof.

9. "Close season" is that period of time during which an act is prohibited.

10. Inclosed lands is defined to mean lands the outlines or boundaries of which are marked by water, by a wire, ditch, hedge or fence, road or highway, or partially by one or more of said means, or any visible inclosure or distinctive boundary which indicates a separation from the surrounding or contiguous territory of whatever nature.

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CHAP. 604, LAWS OF 1892.

AN ACT for the relief of street surface railroad companies organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four.

Section 1. Any street railroad company now organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, which shall have heretofore constructed and is now operating any extension or branch of its railroad along any streets or highways or portion thereof within any county named in its articles of association, in a city not exceeding in population fifty thousand inhabitants, and shall heretofore have obtained the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway upon which it has constructed or operated such

railroad, is hereby authorized to operate and maintain the same respectively in like manner and as fully as if the said streets and highways, or portions thereof, were fully named and described in its articles of association, and upon filing in the office of the secretary of state a certificate signed by its board of directors, which certificate shall contain a statement of the names of cities, towns, villages and counties, and the names or descriptions of the streets, avenues and highways in which such extension or branch has been constructed, the places from and to which the same has been constructed and is to be maintained and operated, and the length thereof, as near as may be; thereupon the said extensions and branches shall be deemed and considered a part of the lines of railway of such corporation from the date of the filing thereof, with the same force and effect as if the same were fully named and described in its original articles of association, and all corporate action relating to the construction, maintenance and operation of such extensions or creating liens upon the same by the said corporation, are hereby validated and confirmed.

§ 2. Nothing in this act contained shall affect or impair any vested right or any pending litigation.

CHAP. 711, LAWS OF 1892.

AN ACT to provide for and limit the hours of service on railroads.

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§ 4. Any railroad company or corporation, or any officer, agent or employe of any such company or corporation, violating or permitting the violation of any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of five hundred dollars for each offense.

(See decision Court of Appeals under this act, 136 N. Y. p. 554. See, also, subdivision 4, section 384-h, Penal Code, *post.*)

CHAP. 238, LAWS OF 1893.

AN ACT in relation to filing amended affidavits to certificates of incorporation of railroad companies.

Section 1. Where it does not appear by the affidavit indorsed on or annexed to any certificate of incorporation filed under the railroad law, that the amount of capital stock required by the pro-

visions of said law to be paid in good faith and in cash to the directors named in such certificate has been so paid, and where such payment has been made prior to the passage of this act, an affidavit of at least three of the directors named in said certificate, stating that the amount of capital stock required by said railroad law to be paid in good faith and in cash to the directors named in the certificate has been so paid, may be filed in the office of the secretary of state, which affidavits shall be annexed to said certificate, and upon such filing, said certificate shall for all purposes have the same force and effect as if said affidavit had been annexed thereto when said certificate was filed.

CHAP. 239, LAWS OF 1893.

AN ACT in relation to the intersections and crossings of the tracks and roadbeds of certain railroads laid in, across or upon the highways, streets, avenues or roads of the cities, towns and villages of the state.

Section 1. Whenever the railroad or route of any street surface railroad corporation shall intersect and cross, or shall cross the tracks and roadbed of any railroad, operated by locomotive, steam or other power, which are laid in, across or upon the surface of any street, avenue, road or highway in any city, town or village of the state, having less than five hundred thousand inhabitants, and such street surface railroad corporation having been unable to agree with the corporation owning the tracks and roadbed so intersected or to be intersected and crossed, as to the line or lines, grade or grades, points or manner of such intersection and crossing, or upon the compensation to be made therefor, shall have applied to the court by petition to appoint commissioners to determine the same, the court shall upon application made by such street surface railroad corporation, at, or after, the time of the appointment of such commissioners, or if an answer to the petition of such street surface railroad corporation has been interposed, at any time thereafter, direct that such street surface railroad corporation be permitted to lay its tracks across and to intersect, upon the surface of the street, avenue, road or highway, the tracks and roadbed of such railroad operated by locomotive, steam, or other power, provided, such street surface railroad corporation shall at the time of obtaining such order make and file with the clerk of said court, its bond or

undertaking in writing, in an amount and with surety or sureties to be approved by the court, conditioned for the full and faithful performance by such street surface railroad corporation of any and all conditions and requirements which may be imposed by said commissioners and be affirmed by the court, in determining the line or lines, grade or grades, points or manner of such intersection and crossing and as to the amount of compensation to be paid therefor, and also conditioned to conform such crossing and intersection made by virtue of such order of the court to the requirements made by said commissioners as affirmed by the court.

§ 2. No street surface railroad shall be allowed to lay its tracks at grade across the tracks or roadbed of any railroad operated by locomotive steam power at any point where there are three or more tracks of the steam road proposed to be crossed, which tracks have been constructed and in operation at least two years, unless the written consent of the state railroad commissioners be first obtained for such crossing at grade. But this section shall not affect the operation of section one of this act in any suit or proceeding now pending nor any renewals of said pending suit or proceeding brought for any cause.

See sections 12 and 68, Railroad Law, *ante*.

CHAP. 543, LAWS OF 1893.

AN ACT to promote the safety of railway employes by compelling the equipment of freight cars with continuous power or air brakes, and locomotives with driving-wheel brakes.

Section 1. That from and after the first day of January, eighteen hundred and ninety-five, it shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 2. That from and after the passage of this act, in addition to all freight cars now so equipped, there shall be equipped each year, with the continuous power or air brakes by every company operating a line or lines of railroad within the state, at least ten per centum of all freight cars owned or operated by such companies and used within the state, except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of the said "coal jimmies" in any form shall be unlawful within the state,

except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile, under a penalty of one hundred dollars for each offense, said penalty to be recovered in an action to be brought by the attorney-general in the name of the people and in the judicial district where the principal office of the company within the state is located. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile. (*Thus amended by chap. 486, Laws of 1896.*)

§ 3. That on and after the first day of January, nineteen hundred and three, it shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within the state, any freight car not equipped with continuous power or air brakes operated from the engine.

§ 4. That within sixty days from the passage of this act every railroad or other company operating a line of railroad within the state shall file with the board of railroad commissioners at its office in Albany a verified statement of the total number of freight cars owned or operated by it, the number of such cars equipped with such continuous power or air brakes and the number unequipped, and shall thereafter annually and in the month of January, for the ensuing ten years, file with said board a verified report of the number of cars so equipped in each year and the number of cars, if any, remaining unequipped.

§ 5. That on and after January first, nineteen hundred and three, any railroad or other company using or permitting to be used on its line or lines any freight car not equipped with such continuous power or air brake, operating from the locomotive, shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in any action to be brought by the attorney-general in the name of the people in the judicial district wherein the principal office of the company within the state is located, and it shall be the duty of the board of railroad commissioners of the state to notify the attorney-general of all such violations coming to its notice.

§ 6. That the board of railroad commissioners may, from time to time, after full hearing given and for good cause shown, exempt any

company from the provisions of this act, as to the equipment of ten per centum of its cars in any particular year or years, and may extend the time within which any company shall comply with the requirements of this act, not exceeding, however, five years from the first day of January, eighteen hundred and ninety-eight.

§ 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 544, LAWS OF 1893.

AN ACT to promote the safety of railway employes by compelling the equipment of freight cars with automatic couplers.

Section 1. That from and after the passage of this act, every new freight car which is to be used in this state shall be equipped with couplers of the master car builders' type, which can be coupled automatically by impact, and which may, except in cases of accident, be uncoupled without the necessity of a person going between the cars.

§ 2. That from and after the passage of this act, in addition to such new freight cars, there shall be equipped each year with such couplers, by every company operating a line or lines of railroad within the state, at least twenty per centum of all freight cars owned or operated by such companies, and used within the state, which are not so equipped, except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of said "coal jimmies" in any form shall be unlawful within this state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile, under penalty of one hundred dollars for each offense, said penalty to be recovered in an action to be brought by the attorney-general, in the name of the people, and in the judicial district where the principal office of the company within the state is located. This section shall not be construed to authorize the interchange of such "coal jimmies" with, and the use therefor upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile. (*Thus amended by chap. 485, Laws of 1896.*)

§ 3. That on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders' type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 4. That within sixty days from the passage of this act, every railroad or other company operating a line of railroad within the state, shall file with the board of railroad commissioners, at its office in Albany, a verified statement of the total number of freight cars owned or operated by it, the number of such cars equipped with the automatic couplers, and the number unequipped; and shall thereafter annually, and in the month of January, for the ensuing five years, file with said board a verified report of the number of cars so equipped in each year, and the number of cars, if any, remaining unequipped.

§ 5. That on and after January first, eighteen hundred and ninety-eight, any railroad or other company using, or permitting to be used, on its line or lines, any freight car not equipped with couplers as provided for in this act, shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the attorney-general, in the name of the people, and in the judicial district wherein the principal office of the company within the state is located; and it shall be the duty of the board of railroad commissioners of the state to notify the attorney-general of all such violations coming to its notice.

§ 6. That the board of railroad commissioners may, from time to time, after full hearing given and for good cause shown, exempt any company from the provisions of this act, as to the equipment of twenty per cent. of its cars in any particular year or years, and may extend the time within which any company shall comply with the requirements of this act, not exceeding, however, five years from the first day of January, eighteen hundred and ninety-eight.

§ 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 661, LAWS OF 1893.

AN ACT in relation to the public health, constituting chapter twenty-five of the general laws.

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BURIAL AND BURIAL PERMITS.

§ 23. Every such local board shall prescribe sanitary regulations for the burial and removal of corpses, and shall designate the persons who shall grant permits for such burial, and permits for the transportation of any corpse which is to be carried for burial beyond the county where the death occurred. Every undertaker, sexton or other person having charge of any corpse shall procure a certificate of the death and the probable cause, duly certified by the physician in attendance upon the deceased during his last illness, or by the coroner where an inquisition is required by law, and if no physician was in attendance, and no inquest has been held or required by law, an affidavit stating the circumstances, time and cause of death, and sworn to by some credible person known to the officer granting the permit, and there shall be no burial or removal of a corpse until such certificate or affidavit has been presented to the local board, or to the person designated by it, and thereupon a permit for such burial or removal has been obtained. When application is made for a permit to transport a corpse over any railroad, or upon any passenger steamboat within the state, the board of health, or the officers to whom such application is made, shall require such corpse to be inclosed in a hermetically sealed casket of metal or other indestructible material, if the cause of death shall have been from a contagious or infectious disease.

CHAP. 679, LAWS OF 1893.

AN ACT for the relief of street surface railroad companies.

Section 1. Any street surface railroad corporation which shall have heretofore constructed and is now operating any extension or branch of its railroad along any streets or highways or portion thereof in a city having less than fifty thousand inhabitants, or in any town adjoining such city, and which shall heretofore have obtained consent of the owners of one-half in value of the property bounded

on, and the consents also of the local authorities having control of that portion of the streets, roads or highways upon which such extension or branch is constructed and is being operated to the construction and operation of the same, is hereby authorized to operate and maintain any such branch or extension, upon filing in the office of the secretary of state a certificate, signed by its board of directors, which certificate shall contain a statement of the names of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extensions or branches have been constructed, the places from and to which the same have been constructed and are to be maintained and operated and the length thereof as near as may be; thereupon said extensions and branches shall be deemed and considered a part of the lines of said railway from the date of the filing thereof, and all corporate action relating to the construction, maintenance and operation of such extensions or branches, or creating liens upon the same by said corporation are hereby validated and confirmed.

§ 2. Nothing in this act contained shall affect or impair any vested right or any pending litigation, nor shall any corporation which shall avail itself of the provisions of this act be deemed thereby to have waived any rights which it therefore had to maintain and operate any branch or extension named in any certificate filed by it hereunder.

CHAP. 338, LAWS OF 1894.

AN ACT relating to canals, constituting chapter thirteen of the general laws.

* * * * *

POWERS WITH REFERENCE TO RAILROAD NEAR THE CANALS.

§ 25. The superintendent of public works shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the superintendent of public works a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting dis-

tinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtain the written permission of the superintendent of public works and of the canal board for the construction of such railroad, with such conditions, directions and instructions as, in his judgment, the free and perfect use of any such canal or feeder may require.

* * * * *

*** CHAP. 743, LAWS OF 1894.**

AN ACT to facilitate travel upon elevated railroads in the city of New York.

Section 1. Any passenger upon the Manhattan elevated railway who has paid the fare required for passage from any point on said railway east of Broadway, between the Battery and One Hundred and Twenty-ninth street, not exceeding five cents, shall be entitled to a continuous passage, without change of cars, on the suburban rapid transit railway or on any railway owned or operated by the Manhattan railway company, within the city of New York, in connection with said Manhattan elevated railway from One Hundred and Twenty-ninth street, or other termini of the lines of said Manhattan elevated railway south of the Harlem river, to any station on the route of said suburban rapid transit railroad, or such other elevated railroad as may be operated by the Manhattan railway company north of the Harlem river, without the payment of additional fare; and any passenger on the suburban rapid transit railroad, or any elevated railway owned or operated by the Manhattan railway company in connection with the Manhattan elevated railroad, within the city of New York, running southward to One Hundred and Twenty-ninth street, or other termini of the Manhattan railroad, who has paid the fare required on said suburban rapid transit railroad to One Hundred and Twenty-ninth street in the city of New York, not exceeding five cents, shall be entitled to a continuous passage, without change of cars, over the Manhattan elevated railway to any station on its route east of Broadway, between One Hundred and Twenty-ninth street and the Battery, without the payment of additional fare.

*While this is not a general act it is considered of enough importance to be inserted here.

CHAP. 240, LAWS OF 1895.**AN ACT to provide for licensing foreign stock corporations.**

Section 1. Every foreign corporation except banking, fire, marine, casualty and life insurance companies, and corporations wholly engaged in carrying on manufactures in this state, co-operative fraternal insurance companies, endowment orders and building and loan associations, now authorized to do business in this state, under the provisions of chapter six hundred and eighty-seven of the laws of eighteen hundred and ninety-two, entitled "An act to amend the general corporation law," shall pay to the state treasurer for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, on the first day of December, eighteen hundred and ninety-five, to be computed upon the basis of the amount of capital stock employed by it within this state during the year preceding that date, and every such foreign corporation which shall hereafter be authorized to do business in this state shall pay a like license fee for the privilege, to be computed upon the basis of the capital stock employed by it within this state for its business during the first year of carrying on its business in this state. The amount of capital upon which such taxes shall be paid shall be fixed by the comptroller, who shall have the same authority to examine the books and records in this state of such foreign corporations, and the employes thereof, and the same power, to issue his warrant for the collection of such taxes, as he now has with regard to domestic corporations. Every such foreign corporation hereafter authorized to do business in this state shall, before receiving the certificate of authority provided by law, pay to the state treasurer, for the use of the state, the tax hereinbefore provided for. No action shall be maintained or recovery had in any of the courts of this state by such foreign corporation doing business in this state, without obtaining the certificate of authority prescribed by law, and a receipt for the license fee hereby imposed.

(See section 181 Tax Law, *post.*)

CHAP. 417, LAWS OF 1895.

AN ACT to regulate the exercise of their franchises by certain public corporations, by requiring them to afford facilities for the transaction of the public business, to certain public officers and employes.

Section 1. The mayor of each city of this state and the president of each incorporated village may issue, under the seal of his office, to each policeman and fireman appointed by the duly constituted authorities of such city or village, a certificate of the appointment and qualification of such policeman or fireman as such, and specifying the duration of his term of office; and it shall thereupon be the duty of every street surface and elevated railroad company carrying on business within such city or village, to transport every such policeman or fireman free of charge while he is traveling in the course of the performance of the duties of his office. Every telegraph or telephone company engaged in business within such city or village shall afford to such policeman or fireman the use of its telegraph lines or telephones for the purpose of making and receiving reports and communications in the course of the performance of his official duties.

§ 2. Every policeman or fireman who shall permit any other person to use the certificate issued to him as provided by this act, or to present or make use of the same, except while acting in the course of the performance of his official duties, or who shall use such certificate after the expiration of his term of office or his resignation or removal therefrom, shall be deemed guilty of a misdemeanor.

§ 3. This act shall take effect immediately.

(See chapter 683, Laws of 1897, *post.*)

CHAP. 1027, LAWS OF 1895.**AN ACT in relation to the issue of mileage books by railroad corporations.**

Section 1. Every railroad corporation operating a railroad in this state, the line or lines of which are more than one hundred miles in length, and which is authorized by law to charge a maximum fare of more than two cents per mile, and not more than three cents per mile, and which does charge a maximum fare of more than two cents per mile, shall issue mileage books having one thousand coupons attached thereto, entitling the holder thereof, upon complying with the conditions hereof, to travel one thousand miles on the line or lines of such railroad, for which the corporation may charge a sum not to exceed two cents per mile. Such mileage books shall be kept for sale by such corporation at every ticket office of such corporation in an incorporated village or city and shall be issued immediately upon application therefor. The holder of any such mileage book or any member of his family or firm, or any salesman of his firm to whom such book is delivered by him shall be entitled, upon surrendering, at any ticket office on the line or lines of such railroad, coupons equal in number to the number of miles which he or such member of his family or firm, or such salesman of such firm wishes to travel on the line or lines of such railroad, to a mileage exchange ticket therefor. Such mileage exchange ticket shall entitle the holder thereof without producing the mileage book upon which such exchange ticket was issued, to the same rights and privileges in respect to the transportation of person and property to which the highest class ticket issued by such corporation would entitle him. Such mileage books shall be good until all coupons attached thereto have been used. Any railroad corporation which shall refuse to issue a mileage book as provided by this section, or, in violation hereof, to accept such mileage book for transportation, shall forfeit fifty dollars, to be recovered by the party to whom such refusal is made; but no action can be maintained therefor unless commenced within one year after the cause of action accrues. (*Thus amended by chap. 484, Laws 1897.*)

CHAP. 112, LAWS OF 1896.

AN ACT in relation to the traffic in liquors, and for the taxation and regulation of the same, and to provide for local option, constituting chapter twenty-nine of the general laws.

CHAPTER XXIX OF THE GENERAL LAWS.**The Liquor Tax Law.**

Note.—Many sections of the Liquor Tax Law apply to railroad companies which receive liquor tax certificates. Having in mind the purposes sought to be fulfilled by this compilation of railroad laws it is thought best to publish only subdivision 4 of section 11, and section 41.

* * * * *

EXCISE TAXES UPON THE BUSINESS OF TRAFFICKING IN LIQUORS.

§ 11, Subdivision 4. Upon the business of trafficking in liquors upon any car, steamboat or vessel within this state, to be drunk on such car or on any car connected therewith, or on such steamboat or vessel, or upon any boat or barge attached thereto, or connected therewith, there is assessed an excise tax, to be paid by every corporation, association, copartnership or person engaged in such traffic, and for each car, steamboat or vessel, boat or barge, upon which such traffic is carried on, the sum of two hundred dollars. (*Thus amended by chap. 312, Laws 1897.*)

* * * * *

EMPLOYMENT OF PERSONS ADDICTED TO INTOXICATION BY COMMON CARRIERS.

§ 41. Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

See section 420 Penal Code, *post*; also section 42 Railroad Law, *ante*.

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CHAP. 376, LAWS OF 1896.

AN ACT relating to domestic commerce law, constituting chapter thirty-four of the general laws.

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STANDARD AND STORAGE OF ILLUMINATING OILS.

§ 24.

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No such oil or fluid which will ignite at a temperature below three hundred degrees Fahrenheit shall be burned or be carried as freight in any passenger or baggage car or passenger boat moved by steam or electric power in this state, or in any stage or street car, however propelled, except that coal oil, petroleum and its products may be carried, when securely packed in barrels or metallic packages, in passenger boats propelled by steam when there are no other public means of transportation. * * * The state board of health * * * shall adopt such measures to enforce the provisions of this section * * * as to them may seem necessary. * * * This section shall not apply to the city of New York and shall not supersede but shall be in addition to the ordinances or regulations of any city or village, made pursuant to law, for the inspection or control of combustible materials therein.

* * * * *

UNLAWFUL DETENTION OF MILK CANS.

§ 29.

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The several superintendents of the railroad companies and the branches and connections thereof and steamboat lines operating their roads or lines, or any portion thereof in this state, shall have power to collect, gather and take into possession from any person or whenever found thereupon, any cans belonging to any such owner, dealer or shipper, and return the same to such owner, dealer or shipper, and may appoint an agent for that purpose, and such

superintendent and such agent appointed by him shall have the same power and authority under this section as an agent of such owner, dealer or shipper.

The certificate of such superintendent appointing such agent, duly acknowledged, shall be presumptive evidence of the appointment and authority of such agent.

Any person authorized by this section to seize and take into his possession any such cans may, in case of resistance, call to his aid any police officer or constable of the town, village or city, who shall, when so called on, assist him in seizing or taking possession of such cans.

See section 56 Criminal Code, and section 427a Penal Code, *post*. Also, chapter 977, Laws 1896, *post*.

CHAP. 388, LAWS OF 1896.

AN ACT to provide for a better system of lighting passenger cars on elevated railroads in cities of over twelve hundred thousand inhabitants.

Section 1. Within one year from the passage of this act every corporation operating an elevated railroad in any city of over twelve hundred thousand inhabitants in this state computed according to the last census, shall equip two-fifths of all cars used for the transportation of passengers with the most approved system of lighting passenger cars now in use upon railroads, either by electricity or gas of not less than eighteen candle power, and shall likewise equip an additional two-fifths of all such cars within two years from the passage of this act, and shall likewise equip all remaining such cars within three years from the passage of this act, and every such corporation is hereby prohibited from using after one year from the passage of this act, kerosene or coal oils as a means of lighting more than three-fifths in number of all such cars, and after two years from the passage of this act, no more than one-fifth in number of all such cars, and after three years from the passage of this act such corporation is prohibited from using kerosene or coal oils as a means of lighting any of its passenger cars.

§ 2. Any violation of the provisions of this act shall render any such corporation liable to pay a fine or penalty of fifty dollars for

each and every day, for each and every passenger car run over its railroad which is not equipped and lighted as provided in the first section of this act ; and such fine may be recovered by any passenger on such railroad who may sue therefor ; and any violation of the provisions of this act on the part of any such railroad corporation shall also be a misdemeanor.

CHAP. 649, LAWS OF 1896.

AN ACT to validate and confirm certain consents heretofore given by the local authorities of cities of the first and second class in the construction, operation and maintenance of street surface railroads therein.

SECTION 1. All consents given since December first, eighteen hundred and ninety-five, and prior to February first, eighteen hundred and ninety-six, by the local authorities of any city of the first or second class, to the construction, operation and maintenance of a street surface railroad in any such city by a railroad corporation which has not complied with the provisions of section fifty-nine of the railroad law or has failed to obtain the certificate therein provided for, are hereby validated and confirmed, and any such corporation may construct, operate and maintain a street surface railroad over, along and upon the streets, avenues, highways and public places described in such consent upon obtaining the consent of the owners of property bounded on such streets, avenues, highways or public places as provided by law.

CHAP. 962, LAWS OF 1896.

AN ACT to amend section nineteen hundred and forty-eight of the code of civil procedure, by adding at the end thereof a new subdivision, relating to actions against foreign corporations.

SECTION 1. Section nineteen hundred and forty-eight of the code of civil procedure is hereby amended by adding a new subdivision thereto, as subdivision four, as follows :

4. Against a foreign corporation which exercises within the state any corporate rights, privileges or franchises, not granted to it by the law of the state ; or which within the state, has violated any provision of law, or, contrary to law, has done or omitted any act, or has exercised a privilege or franchise, not conferred upon it by the law of this state, where, in a similar case, a domestic corporation would, in accordance with section seventeen hundred and ninety-eight of this act, be liable to an action to vacate its charter and to annul its existence ; or which exercises within the state any corporate rights, privileges or franchises in a manner contrary to the public policy of the state.

CHAP. 977, LAWS OF 1896.

AN ACT to amend chapter four hundred and one of the laws of eighteen hundred and eighty-seven, entitled "An act in relation to milk cans," as amended by chapter twenty-five of the laws of eighteen hundred and ninety.

Note.—Other provisions of this act than those printed here may apply to railroad companies.

Section 1. Chapter four hundred and one of the laws of eighteen hundred and eighty-seven, entitled "An act in relation to milk cans," as amended by chapter twenty-five of the laws of eighteen hundred and ninety, is hereby amended so as to read as follows:

* * * * *

§ 10. The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the branches and connections thereof, and the steamboat lines operating their lines, or any portion thereof, in the state of New York, or elsewhere, shall have power to collect, gather and take into his possession, from any person or persons within the state of New York, or wherever found in this state, any such milk or cream can or cans, and shall have power to appoint an agent therefor.

§ 11. The certificate of any superintendent of any of the railroad companies or steamboat lines mentioned in this act, or any person or persons authorized thereto, in this act, appointing an agent to collect such can or cans, duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

§ 12. Such agent shall have full power to collect, gather and take into his possession from any person or persons, or corporation, or wherever found, any such milk or cream can or cans, and in case of resistance may call to his aid the assistance of any constable or police officer who shall assist him to take possession of such can or cans.

§ 13. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

See chapter 376 Laws of 1896, *ante*.

CHAP. 193, LAWS OF 1897.

AN ACT in relation to the consolidation of domestic and foreign railroad corporations.

SECTION 1. The consolidation heretofore effected of a domestic railroad corporation with a foreign railroad corporation, shall not be deemed invalid because such roads at the time of the consolidation did not form a connected and continuous line, if, when the consolidation was effected, an intermediate line, by purchase or by a lease, of not less than ninety-nine years became, with the consolidated roads, a continuous and connecting line of railroad, and such consolidation is hereby ratified and confirmed.

CHAP. 286, LAWS OF 1897.

AN ACT to provide for the widening and improving of highways in towns having a total population of eight thousand or more inhabitants and containing an incorporated village having a total population of not less than eight thousand and not more than fifteen thousand inhabitants.

* * * * *

§ 10. No surface railway shall be constructed on any said highway so widened, except within eleven feet on each side of the center line of said highway, and no such railway shall be operated by horse or horses. A distance of not less than twenty feet on each side of such twenty-two feet so reserved for railroad purposes shall be improved for highway purposes, and not less than sixteen feet of said twenty feet shall be of macadam. Sidewalks shall be graded on each side of said highway to a width of not less than fifteen feet each.

CHAPTER 378, LAWS OF 1897, GREATER NEW YORK CHARTER.

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FRANCHISES FOR STREET RAILWAYS; FERRIES.

§ 45. The municipal assembly is authorized to grant from time to time to any corporation thereunto duly authorized, the franchise or right to construct and operate railways in, upon, over, under and along streets, avenues, parkways or highways of the city, but no such grant shall be made except upon the limitations and conditions of this act elsewhere provided in respect of the grant by the municipal assembly of franchises and rights in the streets, avenues, parkways and highways of the city. And further, to the end that cheap, easy and convenient intercourse may be had between all parts of the city, The City of New York, as hereby constituted, shall have full and exclusive power to establish, and full power to enjoy by leasing the same or otherwise, and to maintain and regulate ferries over all streams and waterways within or adjoining the limits of the said city. The municipal assembly may pass appropriate ordinances not inconsistent with law or with this act, or with the vested rights of existing companies or corporations, to enforce the provisions of this section and to carry out its purposes. Nothing in this act contained shall repeal or affect in any manner the provisions of the rapid transit acts applicable to the corporation heretofore known as the mayor, aldermen and commonalty of the city of New York, or any municipality herein united therewith or territory embraced therein, or to repeal or affect the existing general laws of the state in respect to street surface railroads.

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CHAPTER III.

FRANCHISES AND GRANTS OF LAND UNDER WATER.

TITLE I. Franchises.

2. Grants of land under water.

TITLE I.

FRANCHISES.

INALIENABLE RIGHTS OF THE CITY TO ITS PROPERTIES.

Section 71. The rights of the city in and to its water front, ferries, wharf property, land under water, public landings, wharves, docks streets, avenues, parks, and all other public places are hereby declared to be inalienable.

FRANCHISES TO BE GRANTED BY ORDINANCE.

§ 72. Every grant of or relating to a franchise of any character to any person or corporation must, unless otherwise provided in this act, be by ordinance.

LIMITS AND CONDITIONS TO GRANTS OF FRANCHISES.

§ 73. After the approval of this act no franchise or right to use the streets, avenues, parkways or highways of the city shall be granted by the municipal assembly to any person or corporation for a longer period than twenty-five years, except as hereinafter provided, but such grant may at the option of the city provide for giving to the grantee the right on a fair revaluation or revaluations to renewals not exceeding in the aggregate twenty-five years. Such grant, and any contract in pursuance thereof, may provide that upon the termination of the franchise or right granted by the municipal assembly, the plant, as well as the property of the grantee in the streets, avenues, parkways, and highways, with its appurtenances, shall thereupon be and become the property of the city without further or other compensation to the grantee; or such grant and contract may provide that upon such termination there shall be a fair valuation of the plant and property which shall be and become the property of the city on the termination of the grant on paying the grantee such valuation. If by virtue of the grant or contract the plant and property are to become the city's, without money payment therefor, the city shall have the option either to take and operate the said property on its own account, or to renew the said grant for not exceeding twenty years upon a fair revaluation, or to lease the same to others for a term not exceeding twenty years. If the original grant shall provide that the city shall make payment for the plant and property, such payment shall be at a fair valuation of the same, as property excluding any value derived from the franchise; and if the city shall make payment for such plant and property it shall in that event operate the

plant and property on its own account for at least five years, after which it may determine either to continue such operation on its own account, or to lease the said plant and property and the right to use the street and public places in connection therewith for limited periods, in the same or similar manner as it leases its ferries and docks. Nothing in the foregoing provisions of this section contained shall apply to consents granted to tunnel railroad corporations and the municipal assembly is hereby authorized, in its discretion, to grant a franchise or right to any railroad corporation to use any of said streets, avenues, parkways or highways in the city of New York for the construction and operation of a tunnel railroad underneath the surface thereof for the period of fifty years, and any such grant may, at the option of the city, provide for giving to the grantee the right, on a fair revaluation or revaluations, to renewals not exceeding in the aggregate twenty-five years, provided, however, that such grant shall only be made after an agreement has been entered into by such tunnel corporation to pay to the city of New York three per centum, or so much thereof as may be, of the net profits derived from the use of any tunnel which it shall construct, after there shall have first been retained by such company from such net profits a sum equal to five per centum upon the sum expended to construct such tunnel. Every grant shall make adequate provision, by way of forfeiture on the grant or otherwise, to secure efficiency of public service at reasonable rates, and the maintenance of the property in good condition throughout the full term of the grant. The grant or contract shall also specify the mode of determining the valuations and revaluations therein provided for. (*Thus amended by chap. 564, Laws 1899.*)

PROCEEDINGS PRIOR TO GRANT OF FRANCHISE.

§ 74. Before any grant of the franchise or right to use any street, avenue, parkway or highway shall be made, the proposed specific grant embodied in the form of an ordinance with all of the terms and conditions, including the provisions as to rates, fares and charges, shall be published at least twenty days in the City Record and at least twice in two daily newspapers published in the city to be designated by the mayor at the expense of the proposed grantee. Such ordinance shall on its introduction and first reading be referred by the municipal assembly to the board of estimate and apportionment, who shall make inquiry as to the money value of the franchise or privilege proposed to be granted and the adequacy of the compensation proposed to be paid therefor, and no grant thereof by the municipal assembly shall be made except on terms approved by vote or resolution of the board of estimate and apportionment, entered on the minutes of record of such board, and every ordinance containing or making such grant shall require the concurrence of three-fourths of all the members elected to each branch of the municipal assembly as shown by the ayes and noes there recorded and the approval of the mayor, and thirty days at least shall intervene between the introduction and final passage of any such ordinance. It shall require a vote of five-sixths of all the members elected to each branch of the municipal assembly to pass such ordinance over the mayor's veto. This act shall apply to any renewal or extension of the grant or leasing of the property to the same grantee or to others.

MUNICIPAL ASSEMBLY TO PASS ORDINANCES.

§ 75. The municipal assembly may from time to time pass appropriate ordinances, not inconsistent with the constitution and laws of the state, to carry the provisions of this title into effect, but shall not part with the right and duty at all times to exercise in the interest of the public, full municipal superintendence, regulation and control in respect of all matters connected with such grant, and not inconsistent with the terms thereof.

CITY MAY DISPOSE OF BUILDINGS NOT REQUIRED FOR PUBLIC USE.

§ 76. Nothing in this title contained shall prevent the city from disposing of any building or parcel of land no longer needed for public use, provided such disposition shall be approved by the sinking fund commissioners, and shall be at public sale, and be provided for by ordinance.

ACTS NOT APPLICABLE TO GRANTS UNDER THIS TITLE.

§ 77. Section ninety-three of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety and any acts amendatory thereof or supplementary thereto, shall have no application to grants made under and pursuant to this title.

(See § 49 as to licensing of street cars, use of streets by cars, etc., etc.; § 315 as to police at railroad stations; § 749 as to hose bridges over railway tracks during fires; § 1456 allows salt or salt-petre to be used upon curves, crossings or switches of railroad tracks for the purpose of dissolving snow or ice.)

CHAP. 411, LAWS OF 1897.

AN ACT to amend the executive law, relating to the fees to be paid for filing certain certificates of incorporation.

SECTION 1. Subdivision twelve of section twenty-six of chapter six hundred and eighty-three of the laws of eighteen hundred and ninety-two, entitled "An act in relation to executive officers, constituting chapter nine of the general laws," is hereby amended to read as follows:

12. For filing and recording the original certificate of incorporation of a railroad corporation for the construction of a railroad in a foreign country, fifty dollars; for filing the original certificates of every other railroad corporation, twenty-five dollars; for filing the original certificate of any other stock corporation, ten dollars; for filing any original certificate of incorporation drawn under article two of the membership corporations law, ten dollars.

§ 2. This act shall take effect immediately.

CHAP. 414, LAWS OF 1897.

AN ACT in relation to villages, constituting chapter twenty-one of the general laws.

SHORT TITLE.

SECTION 1. This chapter shall be known as the village law.

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VILLAGE ORDINANCES.

§ 89. The board of trustees has power to enact, amend and repeal ordinances for the following purposes:

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BLOWING OF STEAM.

7. To regulate or prevent the blowing of steam into, upon or over the streets.

• • • • •

POLES AND WIRES.

9. To regulate the erection of telegraph, telephone or electric light poles, or the stringing of wires in, over or upon the streets or public grounds, or upon, over or in front of any building or buildings.

RAILROAD CROSSINGS; SPEED

10. To regulate the time during which cars, engines or trains may stand upon the street crossings of railroads; to regulate the speed of locomotives and cars, subject to the provisions of the railroad law, and by a two-thirds vote of all the members of the board, to require railroad companies to erect gates at crossings, to employ competent men to attend the same, and to employ competent flagmen at such crossings.

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IMPROPER NOISES.

18. To regulate or prevent the ringing of bells, blowing of horns and steam whistles, and the making of other improper noises in the village.

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COLLECTION OF TAXES BY COLLECTOR.

§ 115. Upon receiving the assessment-roll and warrant the collector shall cause a notice to be published at least once in the official paper, if any, and also in each other newspaper published in the village, and posted conspicuously in five public places in the village, stating that on six days specified therein, not less than nine nor more than twenty days after the publication or posting thereof, he will attend at a convenient place in the village, specified in the notice, for the purpose of receiving taxes. At least seven days before the first date fixed in such notice, the collector shall serve a copy thereof upon each corporation named in or subject to taxation upon the assessment-roll, and whose principal office is not in the village, by delivering such copy to a person designated by the corporation for that purpose by a written designation filed with the village clerk, or to any person in the village acting as the agent or representative in any capacity of such corporation. If there is no such designated person or agent in the village, service of such notice upon the corporation shall not be required. Any person or corporation paying taxes within twenty days from the date of the notice, shall be charged with one per centum thereon, and thereafter with five per centum, for the fees of the collector. If a notice is not served upon a corporation as herein required, the collector shall only be entitled to one per centum as his fees upon the taxes assessed against it. After the expiration of such twenty days the collector shall proceed to collect the taxes remaining unpaid, and for that purpose he possesses all the powers of a town col-

lector. The laws relating to town collectors shall also, so far as consistent with this chapter, apply to the collection of village taxes.

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EFFECT OF DETERMINATION.

§ 148. The determination by the board has the following effect:

1. If the petition for the laying out, alteration or widening of a street be granted, the board of trustees may acquire the land for such improvement by purchase or by proceedings under this article. But no street shall be laid out through a building or any fixtures or erections for the purposes of trade or manufacture, or any yard or enclosure necessary to be used for the enjoyment thereof, without the consent of the owner, except upon the order of a justice of the supreme court residing in the judicial district in which the village or a part thereof is situated, to be granted upon an application by the board of trustees on a notice to the owner of not less than ten days.

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CHAP. 415, LAWS OF 1897.

AN ACT in relation to labor, constituting chapter thirty-two of the general laws.

SHORT TITLE

SECTION 1. This chapter shall be known as the labor law.

DEFINITIONS.

§ 2. The term employe, when used in this chapter, means a mechanic, workingman or laborer who works for another for hire.

The person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate, is designated in this chapter as an employer. * *

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HOURS OF LABOR ON STREET SURFACE AND ELEVATED RAILROADS.

§ 5. Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of whatever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants. No employe of any such

secutive hours, including one-half hour for dinner, in any one day of twenty-four hours.

In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

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REGULATION OF HOURS OF LABOR ON STEAM SURFACE AND ELEVATED RAILROADS.

§ 7. Ten hours' labor, performed within twelve consecutive hours, shall constitute a legal day's labor in the operation of steam surface and elevated railroads owned and operated within this state, except where the mileage system of running trains is in operation. But this section does not apply to the performance of extra hours of labor by conductors, engineers, firemen and trainmen in case of accident or delay resulting therefrom. For each hour of labor performed in any one day in excess of such ten hours, by any such employe, he shall be paid in addition at least one-tenth of his daily compensation.

No person or corporation operating a line of railroad of thirty miles in length or over, in whole or in part within this state, shall permit or require a conductor, engineer, fireman or trainman, who has worked in any capacity for twenty-four consecutive hours, to go again on duty or perform any kind of work, until he has had at least eight hours' rest.

PAYMENT OF WAGES BY RECEIVERS.

§ 8. Upon the appointment of a receiver of a partnership or of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employes of such partnership or corporation shall be preferred to every other debt or claim.

CASH PAYMENT OF WAGES.

§ 9. Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, and every water company, not municipal, shall pay to each employe engaged in its business the wages earned by him in cash. No such company or corporation shall pay its employes in scrip, commonly known as store money orders.

WHEN WAGES ARE TO BE PAID.

§ 10. Every corporation or joint stock association, or person carrying on the business thereof by lease or otherwise, shall pay

weekly to each employe the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the twentieth day of each month, pay the employes thereof the wages earned by them during the preceding calendar month.

PENALTY FOR VIOLATION OF PRECEDING SECTIONS.

§ 11. If a corporation or joint stock association, its lessee or other person carrying on the business thereof, shall fail to pay the wages of an employe as provided in this article, it shall forfeit to the people of the state the sum of fifty dollars for each such failure, to be recovered by the factory inspector in his name of office in a civil action; but an action shall not be maintained therefor, unless the factory inspector shall have given to the employer at least ten days' written notice, that such an action will be brought if the wages due are not sooner paid as provided in this article.

On the trial of such action, such corporation or association shall not be allowed to set up any defense, other than a valid assignment of such wages, a valid set-off against the same, or the absence of such employe from his regular place of labor at the time of payment, or an actual tender to such employe at the time of the payment of the wages so earned by him, or a breach of contract by such employe or a denial of the employment.

ASSIGNMENT OF FUTURE WAGES.

§ 12. No assignment of future wages, payable weekly, or monthly in case of a steam surface railroad corporation, shall be valid if made to the corporation or association from which such wages are to become due, or to any person on its behalf, or if made or procured to be made to any person for the purpose of relieving such corporation or association from the obligation to pay weekly, or monthly in case of a steam surface railroad corporation. Charges for groceries, provisions or clothing shall not be a valid off-set for wages in behalf of any such corporation or association.

No such corporation or association shall require any agreement from any employe to accept wages at other periods than as provided in this article as a condition of employment.

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ARTICLE X.

STATE BOARD OF MEDIATION AND ARBITRATION.

- SECTION** 140. Organization of board.
141. Secretary and his duties.
142. Arbitration by the board.
143. Mediation in case of strike or lock-out.
144. Decisions of board.
145. Annual report.
146. Submission of controversies to local arbitrators.
147. Consent; oath; powers of arbitrators.
148. Decision of arbitrators.
149. Appeals.

ORGANIZATION OF BOARD.

§ 140. There shall continue to be a state board of mediation and arbitration, consisting of three competent persons to be known as arbitrators, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold his office for the term of three years, and receive an annual salary of three thousand dollars. The term of office of the successors of the members of such board in office when this chapter takes effect, shall be abridged so as to expire on the thirty-first day of December preceding the time when each such term would otherwise expire, and thereafter each term shall begin on the first day of January.

One member of such board shall belong to the political party casting the highest, and one to the party casting the next highest number of votes for governor at the last preceding gubernatorial election. The third shall be a member of an incorporated labor organization of this state.

Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the state. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

SECRETARY AND HIS DUTIES.

§ 141. The board shall appoint a secretary, whose term of office shall be three years. He shall keep a full and faithful record of the proceedings of the board, and all documents and testimony forwarded by the local boards of arbitration, and shall perform such other duties as the board may prescribe. He may, under the direction of the board, issue subpoenas and administer oaths in all cases before the

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board, and call for and examine books, papers and c parties to the controversy.

He shall receive an annual salary of two thousand in the same manner as that of the members of the b

ARBITRATION BY THE BOARD.

§ 142. A grievance or dispute between an emplo ployes may be submitted to the board of arbitration for their determination and settlement. Such submi writing, and contain a statement in detail of the g ppute and the cause thereof, and also an agreement termination of the board, and during the investigatio business or at work, without a lock-out or strike.

Upon such submission, the board shall examine the troversy. For the purpose of such inquiry they may nesses, compel their attendance and take and hear te nesses shall be allowed the same fees as in courts o decision of the board must be rendered within ten completion of the investigation.

MEDIATION IN CASE OF STRIKE OR LOCK-OUT.

§ 143. Whenever a strike or lock-out occurs or is se ened, the board shall proceed as soon as practicable thereof, and endeavor by mediation to effect an amica of the controversy. It may inquire into the cause tl that purpose has the same power as in the case of a co mitted to it for arbitration.

DECISIONS OF BOARD.

§ 144. Within ten days after the completion of ever or investigation authorized by this article, the board thereof shall render a decision, stating such details show the nature of the controversy and the points c them, and make a written report of their findings of fa recommendations to each party to the controversy.

Every decision and report shall be filed in the office and a copy thereof served upon each party to the con in case of a submission to arbitration, a copy shall b office of the clerk of the county or counties where the arose.

ANNUAL REPORT.

§ 145. The board shall make an annual report to th and shall include therein such statements and explan:

disclose the actual work of the board, the facts relating to each controversy considered by them and the decision thereon together with such suggestions as to legislation as may seem to them conducive to harmony in the relations of employers and employes.

SUBMISSION OF CONTROVERSIES TO LOCAL ARBITRATORS.

§ 146. A grievance or dispute between an employer and his employes may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employes concerned are members in good standing of a labor organization, which is represented by one or more delegates in a central body, one arbitrator may be appointed by such central body and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board.

If the employes concerned in such grievance or dispute are members of good standing of a labor organization which is not represented in a central body, the organization of which they are members may select and designate one arbitrator. If such employes are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

CONSENT; OATH; POWERS OF ARBITRATORS.

§ 147. Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy.

The board may, through its chairman, subpoena witnesses, compel their attendance and take and hear testimony.

The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

DECISION OF ARBITRATORS.

§ 148. The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. Such decision shall be a settlement of the matter submitted to such arbitrators, unless within ten days thereafter an

appeal is taken therefrom to the state board of mediation and arbitration.

One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the secretary of the state board of mediation and arbitration.

APPEALS.

§ 149. The state board of mediation and arbitration shall hear, consider and investigate every appeal to it from any such board of local arbitrators and its decisions shall be in writing and a copy thereof filed in the clerk's office of the county or counties where the controversy arose and duplicate copies served upon each party to the controversy. Such decision shall be final and conclusive upon all parties to the arbitration.

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See sections 384f, 384h, 384i, Penal Code, *post*.

CHAP. 418, LAWS OF 1897.

AN ACT in relation to liens, constituting chapter forty-nine of the general laws.

* * * * *

LIENS FOR LABOR ON RAILROADS.

§ 6. Any person who shall hereafter perform any labor for a railroad corporation shall have a lien for the value of such labor upon the railroad track, rolling stock and appurtenances of such railroad corporation and upon the land upon which such railroad track and appurtenances are situated, by filing a notice of such lien in the office of the clerk of any county wherein any part of such railroad is situated, to the extent of the right, title and interest of such corporation in such property, existing at the time of such filing. The provisions of this article relating to the contents, filing and entry of a notice of a mechanic's lien, and the priority and duration thereof, shall apply to such liens. A copy of the notice of such lien shall be personally served upon such corporation within ten days after the filing thereof in the manner prescribed by the code of civil procedure for the service of summons in actions in justices' courts against domestic railroad corporations.

CONDITIONAL SALE OF RAILROAD EQUIPMENT AND ROLLING STOCK.

§ 111. Whenever any railroad equipment and rolling stock is sold, leased or loaned under a contract which provides that the title to such property, notwithstanding the use and possession thereof by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of installments, amounts or rentals payable, or the performance of other obligations thereunder, are fully complied with and that title to such property shall pass to the vendee, lessee or other bailee on full payment therefor, such contract shall be invalid as to any subsequent judgment creditor of or purchaser from such vendee, lessee or bailee for a valuable consideration, without notice, unless

1. Such contract is in writing, duly acknowledged and recorded in the book in which real estate mortgages are recorded in the office of the county clerk or register of the county in which is located the principal office or place of business of such vendee, lessee or bailee and unless

2. Each locomotive or car so sold, leased or loaned, has the name of the vendor, lessor or bailor, or of the assignee of such vendor, lessor or bailor, plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

Other provisions of the Lien Law apply to railroads. See sections 3398-3441 of the Code of Civil Procedure, relating to the enforcement of mechanics' liens and liens on vessels. It is deemed advisable to publish but one of them here as follows:

CHAP. 419, LAWS OF 1897.

AN ACT to amend the code of civil procedure, relating to the enforcement of mechanics' liens on real property and liens on vessels.

* * * * *

JUDGMENT IN ACTIONS TO FORECLOSE A MECHANICS' LIEN ON PROPERTY OF A RAILROAD CORPORATION.

§ 3419. If the lien is for labor done or materials furnished for a railroad corporation, upon its land, or upon or for its track, rolling stock or the appurtenances of its railroad, the judgment shall not direct the sale of any of the real property described in the notice of the lien, but when in such case, a judgment is entered and docketed with the county clerk of the county where the notice of lien is filed, or a transcript thereof is filed and docketed in any other county, it

shall be a lien upon the real property of the railroad corporation, against which it is obtained, to the same extent, and enforceable in like manner as other judgments of courts of record against such corporation.

CHAP. 592, LAWS OF 1897.

AN ACT in relation to navigation, constituting chapter thirty of the general laws.

* * * * *

LIGHTS UPON SWING-BRIDGES.

§ 40. Every corporation, company or individual, owning, maintaining or operating a swing-bridge across the Hudson river shall, during the season of navigation, between sundown and sunrise keep and maintain the following lights: Upon every swing-bridge with water on each side of pivot pier, eight lights, located as follows: One red light on or over the north and one on or over the south end of the east rest piers; one red light on or over the north and one on or over the south end of the west rest pier, and a green light on each corner of the bridge when open. If there is a waterway on only one side of the pivot pier, five lights, located as follows: One red light on or over the north and one on or over the south end of the rest pier nearest the channel, and a green light upon each end of the bridge when open upon the corners nearest the channel. Such lights shall be of the usual brilliancy of lights used for such purposes and known as signal lanterns.

See section 433a Penal Code, *post*.

CHAPTER 612, LAWS OF 1897.

NEGOTIABLE INSTRUMENT LAW.

(This act contains general provisions affecting railroads, but it is not thought necessary to print it here.)

CHAP. 663, LAWS OF 1897.

AN ACT providing for and regulating the carriage of passengers across the New York and Brooklyn bridge and affecting the rates of fare therefor.

SECTION 1. The trustees of the New York and Brooklyn bridge are hereby authorized and empowered to abolish all fares upon the railroadways of the said bridge, save and except as hereinafter provided.

§ 2. The said trustees may continue to maintain and to operate the present railroad on said bridge and to charge such fares for the carriage of passengers thereon as they may deem fit, but not, however, in excess of the present rate.

§ 3. And the said trustees are hereby authorized and empowered to contract with any street surface or elevated railroad corporation or corporations, operating its or their roads in either the city of New York or the city of Brooklyn, respectively, permitting its or their carriage of passengers across the said bridge, but each and every contract therefor must provide that said corporation will not charge any fare in excess of, or additional to, the fare exacted by it from any passenger for one continuous ride upon any of its routes in either of the cities of New York or Brooklyn, as the case may be, so that the said route of said corporation or corporations operated across said bridge under said contract, so far as the exaction of a fare is concerned, shall be taken and deemed to be a part of the continuous route or one of the continuous routes of said railroad corporation or corporations whereon one fare is exacted, so that no extra or additional fare shall be exacted by any such street surface or elevated railroad corporation from any passenger carried to or from the bridge and across the bridge in addition to the fare exacted from such passenger for carriage to and from the bridge only, but nothing in this act shall be construed as preventing the said trustees from making a proper charge to any railroad corporation for each car crossing said bridge.

§ 4. Within sixty days after the passage of this act, the said trustees shall prepare plans and specifications regulating the operation over said bridge of the cars of such corporation or corporations with whom it may contract, as such trustees shall deem best adapted to promote the public comfort and convenience and to subserve the purposes for which said bridge was constructed, and, except as otherwise provided by said trustees, such plans and specifications shall be in substantial conformity with the plans recommended to the said trustees by Virgil G. Bogue, George H. Thompson and Leffert L. Buck, expert engineers, by their report bearing date February eighth, eighteen hundred and ninety-seven. And said trustees shall also prepare such form of contracts and specifications thereunder as they shall deem best fitted for the public interests, regulating the operation of the said cars of the said corporation or corporations and the establishment of its route or their route upon said bridge, and shall have power to exact such bond or obligation as they may deem proper for the faithful performance of any contract or contracts made with any and all of said corporations, as aforesaid.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

§ 6. This act shall take effect immediately.

CHAP. 683, LAWS OF 1897.

AN ACT to regulate the exercise of their franchises by certain public corporations by requiring them to afford facilities for the transaction of the public business to certain public officers and employes of the city of New York.

SECTION 1. The mayor of the city of New York may issue under the seal of his office to each policeman and fireman appointed by the duly constituted authorities of said city a certificate of the appointment and qualification of such policeman or fireman as such, and specifying the duration of his term of office; and it shall be thereupon the duty of every street surface, elevated railroad or railroad company operating cars by steam or electricity and carrying on business within said city to transport every such policeman or fireman free of charge while he is traveling in the course of the performance of the duties of his office within said city limits. Every telegraphic or telephone company engaged in business within such city or village shall afford to such policeman or fireman the use of its telegraph lines or telephones for the purpose of making and receiving reports and communications in the course of the performance of his official duty.

§ 2. Every policeman or fireman who shall permit any other person to use the certificate issued to him as provided by this act, or to present or make use of the same, except while acting in the course of the performance of his official duties, or who shall use such certificate after the expiration of his term of office or his resignation or removal therefrom, shall be deemed guilty of a misdemeanor.

§ 3. This act shall take effect immediately.

See chap. 417, Laws of 1895, *ante*.

CHAP. 182, LAWS OF 1898.

AN ACT for the government of cities of the second class.

* * * * *

§ 150. When a street has once been established, graded, paved, flagged and curbed at the expense of the owners of property deemed to be benefited thereby, every expense thereafter of keep-

borne wholly by the city, except that it shall be the duty of all railroad companies to cause that part of the streets throughout the city upon which their tracks are laid, lying between the outer rails of the tracks and for two feet on either side thereof, to be kept in repair under the direction of the commissioner of public works.

(Other provisions of this act apply to railroad companies.)

CHAP. 217, LAWS OF 1898.

AN ACT to carry into effect the provisions of chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven, entitled "An act to amend the railroad law and the acts amendatory thereof, relative to grade crossings," and making an appropriation therefor.

SECTION 1. The sum of one hundred thousand dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated to carry into effect the provisions of chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven, entitled "An act to amend the railroad law and the acts amendatory thereof, relative to grade crossings."

§ 2. The board of railroad commissioners is hereby authorized and empowered to expend an amount not exceeding ten thousand dollars in the employment of expert and clerical service necessary to supervise the work performed under the said chapter seven hundred and fifty-four of the laws of eighteen hundred and ninety-seven, and to prepare plans, maps and specifications therefor; said ten thousand dollars to be paid by the treasurer upon the warrant of the comptroller, as directed by the said board of railroad commissioners, from the money appropriated by this act.

CHAP. 263, LAWS OF 1898.

AN ACT for the relief of certain railroad corporations.

SECTION 1. Any railroad corporation that was duly incorporated after the year eighteen hundred and eighty-five, under the provisions of chapter one hundred and forty, of the laws of eighteen hundred and fifty, and the acts amendatory thereof, and that within two years after its certificate of incorporation was filed, began the construction of its road and expended five hundred thousand dollars

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thereon, but failed to finish its road and put it in
ten years from the time of filing such certificate, sh;
and have all the rights and be subject to all the obli
or provided by the next section of this act.

§ 2. Any such company or corporation may fin
put it in operation; and the rights, powers, privileges,
gations, duties, restrictions and limitations of any
shall be as though the time heretofore provided by
road and put it in operation, had been fifteen years
filing its certificate of incorporation; and all right
acquired by any such corporation to construct its
along or across any street or highway, and all proce
or extend its route or change its termini, or acquire
and all liens or obligations against any such corpora
expressly conferred, imposed and continued to the
though the time for finishing its road had been fifteen
said. This act shall not apply to any street railroa
face, elevated or depressed, nor to any railroad mo
miles in length.

CHAP. 491, LAWS OF 1898.

AN ACT to amend chapter three hundred and thirty eight hundred and ninety-three, entitled "An act to agriculture, constituting articles one, two, three, four and five of chapter thirty-three of the general laws, relating to the sale and transportation of calves.

SECTION 1. Chapter three hundred and thirty-eight hundred and ninety-three, entitled "An act agriculture, constituting articles one, two, three, four, five, six, seven and eight of chapter thirty-three of the general laws," is amended by adding the following sections, to be known as sections one, seventy-two and seventy-three.

§ 71. No person shall slaughter, for the purpose same for food, or expose for sale or sell within this or cause to be brought into any city, town or village or state for food any calf or carcass of the same, or an except the hide, unless it is in good, healthy condition at least four weeks of age at the time of killing. Any persons duly authorized by the commissioner of agriculture may examine any calf or veal found within this state offered

said, or kept with intent to sell as food, and if, such calf is under four weeks of age, or the veal is from a calf killed under four weeks of age, or from a calf in an unhealthy condition when so killed, he may seize the same and cause it to be destroyed or disposed of in such manner as to make it impossible to be thereafter used as food.

§ 72. On and after the passage of this act it shall be unlawful for any corporation, partnership, person or persons to ship to or from any part of this state any carcass or carcasses of a calf or calves or any part of such carcass except the hide, unless they shall attach to every carcass or part thereof so shipped in a conspicuous place a tag, that shall stay thereon during such transportation, stating the name or names of the person or persons who raised the calf, the name of the shipper, the points of shipping and the destination and the age of the calf.

§ 73. On and after the passage of this act, no railroad company, express company, steamboat company, or other common carrier, shall carry or receive for transportation any carcass or carcasses of calves, or any part of the same except the hide, unless the said carcass or carcasses or parts thereof shall be tagged as herein provided.

CHAP. 495, LAWS OF 1898.

AN ACT to extend the time for the commencement of construction or the completion of railroads that have been placed in the hands of receivers by the supreme court.

SECTION 1. All railroad corporations that have been organized under the laws of this state, and have been placed in the hands of a receiver or receivers by the supreme court of this state, and that are now in the hands of such receiver or receivers, are hereby granted five years from and after the passage of this act within which to complete their said roads, and the charter or charters of such companies shall not be deemed or taken as forfeited by their failure to complete their said roads within the time originally limited in the general laws of this state for the completion of such roads. And the said companies are hereby authorized to proceed and build their said roads and complete the same within five years after the passage of this act, and the corporate powers and rights shall not be deemed or held to have ceased by reason of lapse of time or by reason of the appointment of such a receiver or receivers.

CHAP. 522, LAWS OF 1898

AN ACT to authorize and empower receivers of property pointed by a judgment or order in an action or proceeding to sell the property of the corporation at private sale.

SECTION 1. A receiver duly appointed in this state pursuant to a judgment in an action, or by and pursuant to a special proceeding, may, upon application to the court by which such judgment was rendered, or such order was made, or notice to such parties as may be entitled to notice in such action or special proceeding, be authorized by the court to sell or convey the property, whether real or personal, of the corporation of which he is the receiver, at private sale, upon such terms and conditions as the court may direct.

§ 2. All sales of the property of a corporation heretofore made by private sale by such a receiver, and conveyances thereof, whether such sales or conveyances have been authorized or directed by the court having jurisdiction of the action or special proceeding in which the receiver was appointed, are hereby ratified and confirmed, as if made as the legal capacity and statutory power of the receiver, and the same are concerned.

CHAP. 534, LAWS OF 1898.

AN ACT to facilitate the collection and recovery of debts due to corporations for which receivers have been appointed.

SECTION 1. Whenever any receiver of a domestic corporation has been appointed of the property within this state of any foreign corporation, and has been appointed and qualified, as provided in chapter fifteen, or title eleven of chapter seventeen, of the civil procedure, either before, upon, or after final judgment in the action or special proceeding in which such appointment was made, shall, by his own verified petition, affidavit or oath, or proof, show to the supreme court, at a special term, within the judicial district wherein such appointment was made, that he has good reason to believe that any officer, agent or employe of such corporation, or any other person, has embezzled or concealed, or withholds from him, possession or under his control, or has wrongfully disposed of the property of such corporation which of right ought to be delivered to the receiver thereof; or that any person can testify to the same.

the embezzlement, concealment, withholding, possession, control or wrongful disposition of any such property, the court shall make an order, with or without notice, commanding such person or persons to appear at a time and place to be designated in the order, before the court or before a referee named by the court for that purpose, and to submit to an examination concerning such embezzlement, concealment, withholding, possession, control or wrongful disposition of such property; and at the time of making such order or at any time thereafter, the court may, in its discretion, enjoin and restrain the person or persons so ordered to appear and be examined from in any manner disposing of any property of such corporation which may be in the possession or under the control of the person so ordered to be examined, until the further order of the court in relation thereto. No person so ordered to appear and be examined shall be excused from answering any question on the ground that his answer might tend to convict him of a criminal offense; but his testimony taken upon such examination shall not be used against him in any criminal action or proceeding.

§ 2. Any person so ordered to appear and be examined shall be entitled to the same fees and mileage, to be paid at the time of serving the order, as are allowed by law to witnesses subpoenaed to attend and testify in an action in the supreme court, and shall be subject to the same penalties upon failure to appear and testify in obedience to such an order as are provided by law in the case of witnesses who fail to obey a subpoena to appear and testify in an action.

§ 3. Any person appearing for examination in obedience to such order shall be sworn by the court or referee to tell the truth, and shall be entitled to be represented on such examination by counsel, and may be cross-examined, or may make any voluntary statement in his own behalf concerning the subject of his examination which may seem to him desirable or pertinent thereto.

§ 4. The court before which such examination is taken, as well as the referee, if one be appointed for that purpose, shall have power to adjourn such examination from time to time, and may rule upon any question or objection arising in the course of such examination, to the same extent that might be done if the person so examined were testifying as a witness in the trial of an action.

§ 5. When the examination of any person under such order shall be concluded, the testimony shall be signed and sworn to by the person so examined, and shall be filed in the office of the clerk of the county where the action is pending, or was tried, in which the re-

ceiver was appointed; and if from such testimony the satisfaction of the court that any person so fully concealing or withholding, or has in his possession, any property which of right belongs to a court may make an order commanding the person with to deliver the same to such receiver, who shall be subject to the further order of the court in relation thereto; otherwise, the court may, at the conclusion of any trial, make such final order in the premises as the law may require.

CHAP. 574, LAWS OF 1898.

AN ACT to amend the code of civil procedure, 1891, as amended, relative to appeals to the court of appeals.

SECTION 1. Section one hundred and ninety-one of the code of civil procedure is hereby amended so as to read as follows:

LIMITATIONS, EXCEPTIONS AND CONDITIONS.

§ 191. The jurisdiction conferred by the last section shall be subject to the following limitations, exceptions and conditions:

1. No appeal shall be taken to said court, in any proceeding commenced in any court other than the court of claims, county court, or a surrogate's court, unless the appellate division of the supreme court allows the appeal, or the order made at the term which rendered the determination, at the next term after judgment is entered thereupon, and that in its opinion a question of law is involved which ought to be reviewed by the court of appeals.

2. No appeal shall be taken to said court from an order of affirmance hereafter rendered in an action to recover damages for personal injury, or to recover damages for injury to property, or in an action to set aside a judgment, sale, conveyance, assignment or written instrument, as in favor of creditors, or in an action to recover wages, salary or compensation for services, including expenses incidental thereto, for breach of any contract therefor, when the decision of the appellate division of the supreme court is unanimous, unless the appellate division shall certify that in its opinion a question of law is involved which ought to be reviewed by the court of appeals. In any case of its refusal to so certify, an appeal is allowed to the court of appeals.

3. The jurisdiction of the court is limited to a review of questions of law.
4. No unanimous decision of the appellate division of the supreme court that there is evidence supporting or tending to sustain a finding of fact or a verdict not directed by the court, shall be reviewed by the court of appeals.

CHAP. 597, LAWS OF 1898.

AN ACT to provide for a change of motive power in the operation of certain railways in and near public parks in the cities of the state of New York.

SECTION 1. Any railroad company having the right to use any railway now constructed in any public tunnel, road or way depressed below the surface of and wholly within any public park in any city within the state of New York having a population of one million five hundred thousand or upwards, may change the motive power and operate any such railway by cable power, underground current of electricity, compressed air, or any other motive power other than locomotive steam power, that may be consented to by the authorities having control of such park or parks, and by the board of railroad commissioners of the state of New York, and may make changes in the construction of the road or roadbed or other property made necessary by the change of motive power. Such reconstruction shall be at the sole cost and expense of the railroad company making such change, and when completed such improved railway shall be the property of the municipal corporation having control of such public tunnel, road or depressed way.

CHAP. 201, LAWS OF 189

AN ACT to facilitate the proving of the incor-
porations formed by the consolidation of t
rations.

SECTION 1. Where two or more corporations l
hereafter be, consolidated and merged into a n
certificate of the secretary of state under his offi
stating the names of the respective corporations
dates of the filing of the certificates respectively
tion of such corporations in his office, the objec
were formed, including the nature and locality of
set forth in their respective incorporation pape
office, the date of the filing of the consolidation
other proceedings in his office, the name of the
formed by such consolidation and merger, the to
porate existence, the place where its principal offic
the amount of its capital stock, shall be presum
facie evidence in all actions and special proceed
poses of the incorporation of the corporations so
incorporation of the new corporation by such co
merger from the date of filing of said consolidation
proceedings, and of the other facts so certified by
§ 2. This act shall take effect immediately.

CHAP. 320, LAWS OF 1899.

AN ACT to amend section three hundred and f
code of civil procedure, relating to jurisdiction of c

SECTION 1. Section three hundred and forty-one
civil procedure is hereby amended so as to read as

§ 341. For the purpose of determining the ju
county court, in either of the cases specified in the
domestic corporation or joint-stock association, v
place of business is established, by or pursuant to a
its articles of association, or is actually located with

or in case of a railroad corporation where any portion of the road operated by it is within the county, it is deemed a resident of the county; and personal service of a summons, made within the county, as prescribed in this act, or personal service of a mandate, whereby a special proceeding is commenced, made within the county, as prescribed in this act for personal service of a summons, is sufficient service thereof upon a domestic corporation wherever it is located.

§ 2. This act shall take effect September first, eighteen hundred and ninety-nine.

CHAP. 336, LAWS OF 1899.

AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claims of the several counties containing towns, villages or cities bonded to aid in the construction of any railroad passing through such towns, villages or cities, on account of the payment to the state of the state taxes collected from such railroads within such bonded towns, villages or cities.

SECTION 1. Any county of this state, containing one or more towns, villages or cities which have heretofore issued bonds to aid in the construction of any railroad passing through such towns, cities or villages, may present to the court of claims a claim for the amount of state taxes collected from or paid by any such railroad within the several towns, villages or cities of such county which were so bonded to aid in the construction of any such railroad, since the eighteenth day of May, eighteen hundred and sixty-nine, and which said taxes were paid by the county treasurer of such county to the state treasurer. Jurisdiction is hereby conferred upon the court of claims to hear, audit and determine such claims and to make awards and render judgments therefor against the state and in favor of such claimants, without interest thereon.

§ 2. The amount which shall be awarded to any county as provided in section one of this act, shall be paid to the county treas-

GENERAL ACTS RELATING TO RAILR

urer of such county; and such county treasurer apply the same in the manner and for the purpose of section four of chapter nine hundred and seventy-eight hundred and sixty-nine, entitled "An act entitled 'An act to authorize the formation of companies and to regulate the same,' passed April four hundred and fifty, so as to permit municipal corporations the construction of such railroads," and the acts amendatory thereof, except that in case such county shall have heretofore paid such town, village or city, such state taxes or any other taxes, or in case such county treasurer has heretofore set aside such taxes, or any portion thereof, for the benefit of such city, in the manner provided by said section four hundred and seven of the laws of eighteen hundred and eighty and the acts amendatory thereof, then and in that case the portion thereof so paid or set aside as aforesaid shall be and applied by such county treasurer for the general benefit of such county.

§ 3. No award shall be made or judgment rendered against the state, unless the facts proved shall make a claim against the state, which would create a liability, established in a court of law or equity against a corporation or municipality; and in case such liability is satisfactorily established, then the court of claims shall hear and render judgment for the claimants for such sum as may be just and equitable, notwithstanding the lapse of time in the accruing of said damages, provided any claim hereunder be filed with the court of claims within one year after the passage of this act.

CHAP. 386, LAWS OF 1899.

AN ACT to amend the banking law, relative to security for deposits in savings banks may be invested in

SECTION 1. Subdivision six of section one hundred and thirty of chapter six hundred and eighty-nine of the laws of one hundred and ninety-two, entitled "An act in relation to

corporations," as amended by chapter eight hundred and thirteen of the laws of eighteen hundred and ninety-five, and chapter two hundred and thirty-six of the laws of eighteen hundred and ninety-eight, is hereby further amended so as to read as follows :

Subdivision 6. In bonds and mortgages on unincumbered real property situated in this state, worth at least twice the amount loaned thereon. Not more than sixty-five per centum of the whole amount of deposits shall be so loaned or invested. If the loan is on unimproved and unproductive real property, the amount loaned thereon shall not be more than forty per centum of its actual value. No investment in any bond and mortgage shall be made by any savings bank except upon the report of a committee of its trustees charged with the duty of investigating the same, who shall certify to the value of the premises mortgaged or to be mortgaged, according to their best judgment, and such report shall be filed and preserved among the records of the corporation. Also in the first mortgage bonds of any railroad corporation of this state, the principal part of whose railroad is located within this state ; or of any railroad corporation of this and any other state or states connecting with and controlled and operated as part of the system of any such railroad corporation of this state, and of which connecting railroad at least a majority of its capital stock is owned by such a railroad corporation of this state, or in the mortgage bonds of any such railroad corporation of an issue to retire all prior mortgage debt of such railroad companies respectively ; provided that at no time within five years next preceding the date of any such investment shall such railroad corporation of this state or such connecting railroad corporations respectively have failed regularly and punctually to pay the principal and interest of all its mortgage indebtedness, and in addition thereto regularly and punctually to have paid dividends upon all its outstanding capital stock during the preceding five years, at the rate of not less than four per centum per annum ; and provided, further, that at the date of every such dividend the outstanding capital stock of such railroad corporation, or such connecting railroad company respectively shall have been equal to at least one-half of the total mortgage indebtedness of

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such railroad corporations respectively, including those issued or to be issued under any mortgage bond in which such investment shall be made in the mortgage bonds of the following railroads: The Chicago and Northwestern Railroad Company, Chicago, Burlington and Quincy Railroad Company, Illinois Central Railroad Company, Pennsylvania Railroad Company, Delaware and Potomac Canal Company, Delaware, Lackawanna and Western Railroad Company, New York, New Haven and Hartford Railroad Company, Boston and Maine Railroad Company, Maine Central Railroad Company. Provided that at the time of making the said railroad bonds shall have earned and paid interest of not less than four per centum per annum in the issues of capital stock for the ten years next preceding the investment, and provided the capital stock of any railroad corporation shall equal or exceed in amount one-third of the value of all its bonded indebtedness; and further provided that the bonds hereby authorized for investments shall be secured by mortgage of the whole or a part of the railroad and the property actually in the possession of and operated by the railroad; also in the first mortgage bonds of the Fonda, Johnstown and Schuylkill Railroad Company, or in the mortgage bonds of any railroad company of an issue to retire all prior mortgage bonds of the railroad company, and provided the capital stock of the railroad company shall equal or exceed in amount one-third of the value of all its bonded indebtedness, and provided also that no more than five per centum of the whole amount of the deposits of any bank shall be loaned or invested in railroad bonds, and no more than five per centum of the deposits of any bank shall be invested in the bonds of any one railroad. Street railroad corporations shall not be considered railroad corporations within the meaning of this subdivision.

CHAP. 488, LAWS OF 1890.

AN ACT authorizing the sale of property left in street surface railroad cars, and the disposition of the proceeds thereof.

SECTION 1. It shall be the duty of every street surface railway corporation doing business in this state, which shall have unclaimed property left in its cars, to ascertain, if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such corporation which shall have such property, not perishable, in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or village in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left may be sold by any such street surface railroad corporation without notice, as soon as it can be, upon the best terms that can be obtained.

§ 2. All moneys arising from the sale of any such unclaimed property, after deducting charges for storage and expenses of sale, shall be paid by any such corporation to the treasurer of any association, composed of the employees of such street railroad corporation, having for its object the pecuniary assistance of its members in case of disability caused by sickness or accident, for the use and benefit of such association and its members; and where no such association of the employees of such street railroad corporation is in existence at the time of any such sale, such moneys shall be paid over to the county treasurer of the county in which such sale took place for the benefit of such county.

CHAP. 497, LAWS OF 1899.

AN ACT to regulate the use of lands forming part of the right of way of any railroad company, the road of which has been removed from the surface in, or adjacent to, streets and highways in all cities of the first class in this state.

SECTION 1. Whenever the right of way, grade or tracks of any steam railroad company in or adjacent to any street or highway in any city of the first class are required by law to be changed or altered by elevating or depressing the same for the purpose of discontinuing the use of steam power upon the surface of such highway or street, such alteration or change of grade shall not be deemed to curtail or affect any right which such railroad company or its lessees or assigns may have to maintain and operate a surface passenger railway within the limits of the right of way so depressed or elevated, and over and under the railroad tracks so depressed or elevated, with all turnouts, sidings and tracks necessary to secure the continuous connection and operation of such surface railroad.

§ 2. In the event that any such turnouts, sidings or tracks shall extend beyond the lines of the right of way of such railroad corporations so depressed or elevated, in or upon any of the streets or highways aforesaid, such turnouts, sidings or tracks so extending beyond the lines of such right of way shall only be constructed upon condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of such street or highway upon which it is proposed to construct or operate such turnouts, sidings or tracks, shall be first obtained; or, in case the consent of such property owners can not be obtained, the appellate division of the supreme court in the department where such construction is proposed, may upon application appoint three commissioners who shall determine, after a hearing of all parties interested, whether such turnouts, sidings and tracks so extending beyond the limits of such right of way and on said highway ought to be constructed or operated; and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

§ 3. Any such surface railroad shall be operated by some power other than steam locomotives, and shall not be used except for passenger traffic.

CHAP. 622, LAWS OF 1899.

AN ACT to amend chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, known as the highway law, in relation to abandoned highways and public rights of way.

SECTION 1. Section ninety-nine of chapter five hundred and sixty-eight of the laws of eighteen hundred and ninety, known as the highway law, is hereby amended so as to read as follows:

§ 99. **Highways abandoned.**— Every highway that shall not have been opened and worked within six years from the time it shall have been dedicated to the use of the public, or laid out, shall cease to be a highway; but the period during which any action or proceeding shall have been, or shall be pending in regard to any such highway, shall form no part of such six years; and every highway that shall not have been traveled or used as a highway for six years, shall cease to be a highway, and every public right of way that shall not have been used for said period shall be deemed abandoned as a right of way. The commissioners of highways shall file, and cause to be recorded in the town clerk's office of the town, written description, signed by them, of each highway and public right of way so abandoned, and the same shall thereupon be discontinued.

CHAP. 647, LAWS OF 1899.

AN ACT to amend chapter seven hundred of the laws of eighteen hundred and ninety-five, entitled "An act to extend the time for the commencement of construction or completion of railroads other than street surface railroads."

SECTION 1. Section one of chapter seven hundred of the laws of eighteen hundred and ninety-five, entitled "An act to extend the time for the commencement of construction or completion of railroads other than street surface railroads," is hereby amended to read as follows:

§ 1. The time or times prescribed for the commencement of the construction or the completion of its railroads, or any portion thereof, by any railroad company which has already acquired at least one-third of its right of way, or begun the construction of

any portion of its railroad, is hereby extended five years from the thirty-first day of December, eighteen hundred and ninety-nine.

§ 2. This act shall take effect on the thirty-first day of December, eighteen hundred and ninety-nine.

CHAP. 690, LAWS OF 1899.

AN ACT to prevent monopolies in articles or commodities of common use, and to prohibit restraints of trade and commerce, providing penalties for violations of the provisions of this act, and procedure to enable the attorney-general to secure testimony in relation thereto.

SECTION 1. Every contract, agreement, arrangement or combination whereby a monopoly in the manufacture, production or sale in this state of any article or commodity of common use is or may be created, established or maintained, or whereby competition in this state in the supply or price of any such article or commodity is or may be restrained or prevented, or whereby for the purpose of creating, establishing or maintaining a monopoly within this state of the manufacture, production or sale of any such article or commodity, the free pursuit in this state of any lawful business, trade or occupation is or may be restricted or prevented, is hereby declared to be against public policy, illegal and void.

§ 2. Every person or corporation, or any officer or agent thereof, who shall make or attempt to make or enter into any such contract, agreement, arrangement or combination, or who within this state shall do any act pursuant thereto, or in, toward or for the consummation thereof wherever the same may have been made, is guilty of a misdemeanor, and on conviction thereof shall, if a natural person, be punished by a fine not exceeding five thousand dollars, or by imprisonment for not longer than one year, or by both such fine and imprisonment; and if a corporation, by a fine of not exceeding five thousand dollars.

§ 3. The attorney-general may bring an action in the name and in behalf of the people of the state against any person, trustee, director, manager or other officer or agent of a corporation, or against a corporation, foreign or domestic, to restrain and prevent

the doing in this state of any act herein declared to be illegal, or any act, in, toward or for the making or consummation of any contract, agreement, arrangement or combination herein prohibited, wherever the same may have been made.

§ 4. Whenever the attorney-general has determined to commence an action or proceeding under this chapter, he may present to any justice of the supreme court, before beginning such action or proceeding under this chapter, an application in writing, for an order directing the persons mentioned in the application to appear before a justice of the supreme court, or a referee designated in such order, and answer such questions as may be put to them or to any of them, and produce such papers, documents and books concerning any alleged illegal contract, arrangement, agreement or combination in violation of this chapter, and it shall be the duty of the justice of the supreme court, to whom such application for the order is made, to grant such application. The application for such order made by the attorney-general may simply show, upon his information and belief, that the testimony of such person or persons is material and necessary. The provisions of article one, of title three, of chapter nine of the code of civil procedure, relating to the application for an order for the examination of witnesses before the commencement of an action and the method of proceeding on such examinations shall not apply except as herein prescribed. The order shall be granted by the justice of the supreme court to whom the application has been made, with such preliminary injunction or stay as may appear to such justice to be proper and expedient, and shall specify the time when and place where the witnesses are required to appear, and such examination shall be held either in the city of Albany, or in the judicial district in which the witness resides, or in which the principal office, within this state, of the corporation affected, is located. The justice or referee may adjourn such examination from time to time and witnesses must attend accordingly. The testimony of each witness must be subscribed by him, and all must be filed in the office of the clerk of the county in which such order for examination is filed.

§ 5. The order for such examination must be signed by the justice making it, and the service of a copy thereof, with an indorsement by the attorney-general, signed by him, to the effect that the

person named therein is required to appear and be examined at the time and place, and before the justice or referee specified in such indorsement, shall be sufficient notice for the attendance of witnesses. Such indorsement may contain a clause requiring such person to produce on such examination all books, papers and documents in his possession, or under his control, relating to the subject of such examination. The order shall be served upon the person named in the indorsement aforesaid, by showing him the original order, and delivering to and leaving with him, at the same time, a copy thereof indorsed as above provided, and by paying or tendering to him the fee allowed by law to witnesses subpoenaed to attend trials of civil actions in a court of record in this state.

§ 6. No person shall be excused from answering any questions that may be put to him, or from producing any books, papers or documents, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, but no person shall be prosecuted in any criminal action or proceedings, or subjected to any penalty or forfeiture, for or on account of any transaction, matter or thing concerning which he may testify, or produce evidence, documentary or otherwise, before said justice or referee appointed in the order for his examination or in obedience to the subpoena of the court, or referee acting under such order, or either of them, or in any such case or proceeding.

§ 7. A referee appointed as provided in this act possesses all the powers and is subject to all the duties of a referee appointed under section ten hundred and eighteen of the code of civil procedure, so far as practicable, and may punish for contempt a witness duly served as prescribed in this act for non-attendance or refusal to be sworn or to testify, or to produce books, papers and documents according to the direction of the indorsement aforesaid, in the same manner, and to the same extent as a referee appointed to hear, try and determine an issue of fact or of law.

§ 8. Chapter three hundred and eighty-three of the laws of eighteen hundred and ninety-seven is hereby repealed.

See sections 7, 30, 53 and 80, Stock Corporation Law, *ante*. See 155 N. Y., D. 441.

Tax Laws Relating to Railroads.

CHAP. 675, LAWS OF 1881.

AN ACT to facilitate the payment of school taxes by railroad companies.

DUTY OF SCHOOL COLLECTOR TO DELIVER TO COUNTY TREASURER CERTAIN STATEMENT; DUTY OF COUNTY TREASURER IN THE PREMISES.

Section 1. It shall be the duty of the school collector in each school district in this state, except in the counties of New York, Kings, and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment roll of his district, to prepare and deliver to the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended, Laws of 1885, chap. 533.*)

TIME IN WHICH TAX MAY BE PAID WITH ONE PER CENT FEES.

§ 2. Any railroad company heretofore organized, or which may hereafter be organized, under the laws of this state, may, within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

IF TAX NOT PAID WITHIN THIRTY DAYS, DUTY OF COLLECTOR TO COLLECT; LIMITATION.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify

the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

TAX TO BE PLACED TO CREDIT OF SCHOOL DISTRICT, PAID TO COLLECTOR ON DEMAND, FEES TO GO TO COLLECTOR ON DEMAND.

§ 4. The several amounts of tax received by any county treasurer in this state under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

TAX MAY BE PAID TO COLLECTOR DIRECT.

§ 5. Nothing in this act contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

CHAP. 686, LAWS OF 1892.

AN ACT in relation to counties, constituting chapter eighteen of the general laws.

* * * * *

STATEMENT OF RAILROAD, TELEGRAPH, TELEPHONE AND ELECTRIC-LIGHT TAXES.

Section 53. The clerk shall, within five days after the making out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

CHAP. 908, LAWS OF 1896.

AN ACT in relation to taxation, constituting chapter twenty-four of the general laws.

CHAPTER XXIV OF THE GENERAL LAWS.**SHORT TITLE.**

Section 1. This chapter shall be known as the tax law.

DEFINITIONS.

§ 2. 1. "Tax district" as used in this chapter, means a political subdivision of the state having a board of assessors authorized to assess property therein for state and county taxes.

2. "County treasurer" includes any officer performing the duties devolving upon such office under whatever name.

3. The terms "land," "real estate," and "real property," as used in this chapter, include the land itself above and under water, all buildings and other articles and structures, substructures and superstructures, erected upon, under or above, or affixed to the same; all wharves and piers, including the value of the right to collect wharfage, craning or dockage thereon; all bridges, all telegraph lines, wires, poles and appurtenances; all supports and inclosures for electrical conductors and other appurtenances upon, above and under ground; all surface, underground or elevated railroads, including the value of all franchises, rights or permission to construct, maintain or operate the same in, under, above, on or through streets, highways, or public places; all railroad structures, substructures and superstructures, tracks and the iron thereon; branches, switches and other fixtures permitted or authorized to be made, laid or placed in, upon, above or under any public or private road, street or ground; all mains, pipes and tanks laid or placed in, upon, above or under any public or private street or place for conducting steam, heat, water, oil, electricity or any property, substance or product capable of transportation or conveyance therein or that is protected thereby, including the value of all franchises, rights, authority or permission to construct, maintain or operate, in, under, above, upon, or through any streets, highways, or public places, any mains, pipes, tanks, conduits, or wires, with their appurtenances, for conducting water, steam, heat, light, power, gas, oil or other substance, or electricity for telegraphic, telephonic or other purposes; all trees and underwood growing upon land, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to the state. A franchise, right, authority or permission specified in this subdivision shall for the purpose of taxation be known as a "special franchise." A special franchise

shall be deemed to include the value of the tangible property of a person, copartnership, association or corporation situated in, upon, under or above any street, highway, public place or public waters in connection with the special franchise. The tangible property so included shall be taxed as a part of the special franchise. No property of a municipal corporation shall be subject to a special franchise tax. (*Thus amended by chap. 712, Laws 1899, taking effect October 1, 1899.*)

4. The terms "personal estate," and "personal property," as used in this chapter, include chattels, money, things in action, debts due from solvent debtors, whether on account, contract, note, bond or mortgage; debts and obligations for the payment of money due or owing to persons residing within this state, however secured or wherever such securities shall be held; debts due by inhabitants of this state to persons not residing within the United States for the purchase of any real estate; public stocks, stocks in moneyed corporations, and such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate.

PROPERTY LIABLE TO TAXATION.

§ 3. All real property within this state, and all personal property, situated or owned within this state, is taxable unless exempt from taxation by law.

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§ 4. Subdivision 16. The owner or holder of stock in an incorporated company liable to taxation on its capital, shall not be taxed as an individual for such stock.

* * * * *

PLACE OF TAXATION OF PROPERTY OF CORPORATIONS.

§ 11. The real estate of all incorporated companies liable to taxation, shall be assessed in the tax district in which the same shall lie, in the same manner as the real estate of individuals. All the personal estate of every incorporated company liable to taxation on its capital shall be assessed in the tax district where the principal office or place for transacting the financial concerns of the company shall be, or if such company have no principal office, or place for transacting its financial concerns, then in the tax district where the operations of such company shall be carried on. In the case of toll bridges, the company owning such bridge shall be assessed in the tax district in which the tolls are collected; and where the tolls of any bridge, turnpike, or canal company are collected in several tax districts, the company shall be assessed in the tax district in which the treasurer or other officer authorized to pay the last preceding dividend resides.

TAXATION OF CORPORATE STOCK.

§ 12. The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment-roll or shall be exempt by law, together with its surplus profits or reserve funds exceeding ten per centum of its capital, after deducting the assessed value of its real estate, and all shares of stock in other corporations actually owned by such company which are taxable upon their capital stock under the laws of this state, shall be assessed at its actual value.

* * * * *

PREPARATION OF ASSESSMENT-ROLL.

§ 21. They shall prepare an assessment-roll containing six separate columns and shall, according to the best information in their power, set down:

1. In the first column the names of all the taxable persons in the tax district.

2. In the second column the quantity of real property taxable to each person with a statement thereof in such form as the commissioners of taxes shall prescribe.

3. In the third column the full value of such real property.

4. In the fourth column the full value of all the taxable personal property owned by each person respectively after deducting the just debts owing by him.

5. In the fifth column the value of taxable rents reserved and chargeable upon lands within the tax district, estimated at a principal sum, the interest of which, at the legal rate per annum, shall produce a sum equal to such annual rents, and if payable in any other thing except money, the value of the rents in money to be ascertained by them and the value of each rent assessed separately, and if the name of the person entitled to receive the rent assessed cannot be ascertained by the assessors, it shall be assessed against the tenant in possession of the real property upon which the rents are chargeable.

6. In the sixth column the value of the special franchise as fixed by the state board of tax commissioners. (*Thus amended by chap. 712, Laws 1899, taking effect October 1, 1899.*)

REPORTS OF CORPORATIONS.

§ 27. The president or other proper officer of every moneyed or stock corporation deriving an income or profit from its capital or otherwise shall, on or before June fifteenth, deliver to one of the assessors of the tax district in which the company is liable to be taxed and, if such tax district is in a county embracing a portion of the forest preserve, to the comptroller of the state, a written statement specifying:

1. The real property, if any, owned by such company, the tax district in which the same is situated and, unless a railroad corporation, the sums actually paid therefor.

2. The capital stock actually paid in and secured to be paid in excepting therefrom the sums paid for real property and the amount of such capital stock held by the state and by any incorporated literary or charitable institution, and

3. The tax district in which the principal office of the company is situated or in case it has no principal office, the tax district in which its operations are carried on.

Such statement shall be verified by the officer making the same to the effect that it is in all respects just and true. If such statement is not made within twenty days after the fifteenth day of June, or is insufficient, evasive or defective, the assessors may compel the corporation to make a proper statement by mandamus.

PENALTY FOR OMISSION TO MAKE STATEMENT.

§ 28. In case of neglect to furnish such statements within thirty days after the time above provided, the company so neglecting shall forfeit to the people of this state for each statement so omitted to be furnished, the sum of two hundred and fifty dollars, and it shall be the duty of the attorney-general to prosecute for such penalty upon information which shall be furnished him by the comptroller. Upon such statement being furnished and the costs of the suit being paid the comptroller, if he shall be satisfied that such omission was not willful, may, in his discretion, discontinue such suit.

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CORPORATIONS, HOW ASSESSED.

§ 31. The assessors shall assess corporations liable to taxation in their respective tax districts upon their assessment-rolls in the following manner:

1. In the first column the name of each corporation, and under its name the amount of its capital stock paid in and secured to be paid in; the amount paid by it for real property then owned

by it wherever situated; the amount of all surplus profits or reserve funds exceeding ten per centum of their capital, after deducting therefrom the amount of said real property and the amount of its stock, if any, belonging to the state and to incorporated literary and charitable institutions.

2. In the second column the quantity of real property except special franchises owned by such corporation and situated within their tax district.

3. In the third column the actual value of such real property, except special franchises.

4. In the fourth column the amount of the capital stock paid in and secured to be paid in, and of all of such surplus profits or reserve funds as aforesaid, after deducting the sums paid out for all the real estate of the company, wherever the same may be situated, and then belonging to it, and the amount of stock, if any, belonging to the people of the state and to incorporated literary and charitable institutions.

5. In the fifth column the value of any special franchise owned by it as fixed by the state board of tax commissioners. (*Thus amended by chap. 712, Laws 1899, taking effect October 1, 1899.*)

§ 37. When the assessors or a majority of them shall have completed their roll, they shall severally appear before any officer of their county authorized by law to administer oaths and shall severally make and subscribe before such officer an oath in the following form: "We, the undersigned, do severally depose and swear that we have set down in the foregoing assessment-roll all the real estate situated in the tax district in which we are assessors, according to our best information; and that, with the exception of those cases in which the value of the said real estate has been changed by reason of proof produced before us, and with the exception of those cases in which the value of any special franchise has been fixed by the state board of tax commissioners, we have estimated the value of the said real estate at the sums which a majority of the assessors have decided to be the full value thereof; and, also, that the said assessment-roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in such roll over and above the amount of debts due from such persons, respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full value thereof, according to our best judgment and belief," which oath shall be written or printed on said roll, signed by the assessors and certified by the officer. (*Thus amended by chap. 712, Laws 1899, taking effect October 1, 1899.*)

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ASSESSORS TO APPORTION VALUATION OF RAILROAD, TELEGRAPH, TELEPHONE, OR PIPE-LINE COMPANIES BETWEEN SCHOOL DISTRICTS.

§ 39. The assessors of each town in which a railroad, telegraph, telephone or pipe line company is assessed upon property lying in more than one school district therein, shall, within fifteen days after the final completion of the roll, apportion the assessed valuation of the property of each of such corporations among such school districts. Such apportionment shall be signed by the assessors, or a majority of them, and be filed with the town clerk within five days thereafter, and thereupon the valuation so fixed shall become the valuation of such property in such school district for the purpose of taxation. In case of failure of the assessors to act, the supervisor of the town shall make such apportionment on request of either the trustees of any school district or of the corporation assessed. The town clerk shall furnish the trustees a certified statement of the valuations apportioned to their respective districts. In case of any alteration in any school district affecting the valuation of such property, the officer making the same shall fix and determine the valuations in the districts affected for the current year.

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ASSESSMENT OF SPECIAL FRANCHISE.

§ 42. The state board of tax commissioners shall annually fix and determine the valuation of each special franchise subject to assessment in each city, town, village or tax district. Such board shall not less than ten nor more than thirty days next preceding the date when an annual assessment is required by law to be completed in any such city, town or village, file with the clerk of such city, town or village a written statement of the valuation of each special franchise in such city, town, village or tax district as fixed and determined by such board; and the valuation so fixed shall be the assessed valuation on which all taxes based on such special franchise in such city, town or village for state, municipal, school or highway purposes, shall be levied during the next ensuing year. The assessors or other taxing officer, or other local officer in any city, town or village, or any state or county officer, shall, on demand, furnish to the state board of tax commissioners any information required by such board for the purpose of determining the value of a special franchise. Each city, town or village clerk shall, within five days after the receipt by him of a statement of assessment of a special franchise by the state board of tax commissioners,

deliver a copy of such statement certified by him to the assessors or other officers charged with the duty of making local assessments, in each tax district in such city, town or village. The valuation of a special franchise as so fixed by the state board of tax commissioners shall be entered by the assessors or other officers in the proper column of the assessment-roll. (*Added by chap. 712, Laws 1899, taking effect October 1, 1899.*)

REPORT TO STATE BOARD OF TAX COMMISSIONERS.

§ 43. Every person, co-partnership, association or corporation subject to taxation on a special franchise, shall, within thirty days after this section takes effect, or within thirty days after such special franchise is acquired, make a written report to the state board of tax commissioners containing a full description of every special franchise possessed or enjoyed by such person, co-partnership, association or corporation, a copy of the special law, grant, ordinance, or contract under which the same is held, or if possessed or enjoyed under a general law, a reference to such law, a statement of any condition, obligation or burden imposed upon such special franchise, or under which the same is enjoyed, together with any other information relating to the value of such special franchise, required by the state board. The state board of tax commissioners may from time to time require a further or supplemental report from any such person, co-partnership, association or corporation, containing information and data upon such matters as it may specify. Every report required by this section shall have annexed thereto the affidavit of the president, vice-president, secretary or treasurer of the association or corporation, or one of the persons or one of the members of the co-partnership making the same, to the effect that the statements contained therein are true. Such board may prepare blanks to be used in making the reports required by this section. Every person, co-partnership, association or corporation failing to make the report required by this section, or failing to make any special report required by the state board of tax commissioners within a reasonable time specified by it, shall forfeit to the people of the state the sum of one hundred dollars for every such failure and the additional sum of ten dollars

for each day that such failure continues, and shall not be entitled to review the assessment by certiorari, as provided by section forty-five of this chapter. (*Added by chap. 712, Laws 1899, taking effect October 1, 1899.*)

HEARING ON SPECIAL FRANCHISE ASSESSMENT.

§ 44. On making an assessment of a special franchise, the state board of tax commissioners shall immediately give notice in writing to the person, co-partnership, association or corporation affected, stating in substance that such assessment has been made, the total valuation of such special franchise, and the valuation thereof in each city, town, village or tax district; and that the board will meet at its office in the city of Albany on a day specified in such notice, which must not be less than twenty nor more than thirty days from the date of the notice, to hear and determine any complaint concerning such assessment. Such notice must be served at least ten days before the day fixed for the hearing; and it may be served on a co-partnership, association or corporation, by mailing a copy thereof to it at its principal office or place of business, and on a person, either personally or by mailing it to him at his place of business or last-known place of residence. Section thirty-six of this chapter applies so far as practicable to a hearing by the state board of tax commissioners under this section. (*Added by chap. 712, Laws 1899, taking effect October 1, 1899.*)

CERTIORARI TO REVIEW ASSESSMENT.

§ 45. An assessment of a special franchise by the state board of tax commissioners may be reviewed in the manner prescribed by article eleven of this chapter, and that article applies so far as practicable to such an assessment, in the same manner and with the same force and effect as if the assessment had been made by local assessors; except that a petition for a writ of certiorari to review the assessment must be presented within fifteen days after notice of the filing of the statement of the valuation of a special franchise with the clerk of the city, town or village, as prescribed by section forty-two of this chapter. Such writ must run to and be answered by said state board of tax commissioners and no writ of certiorari

to review any assessment of a special franchise shall run to any other board or officer unless otherwise directed by the court or judge granting the writ. An adjudication made in the proceeding instituted by such writ of certiorari shall be binding upon the local assessors and any ministerial officer who performs any duty in the collection of said assessment in the same manner as though said local assessors or officers had been parties to the proceeding. The state board of tax commissioners on filing with the city, town or village clerk a statement of the valuation of a special franchise, shall give to the person, co-partnership, association or corporation affected written notice that such statement has been filed, and such notice may be served on a co-partnership, association or corporation by mailing a copy thereof to it at its principal office or place of business, and on a person either personally or by mailing it to him at his place of business or last-known place of residence. *(Added by chap. 712, Laws 1899, taking effect October 1, 1899.)*

DEDUCTION FROM SPECIAL FRANCHISE TAX FOR LOCAL PURPOSES.

§ 46. If, when the tax assessed on any special franchise is due and payable under the provisions of law applicable to the city, town or village in which the tangible property is located, it shall appear that the person, co-partnership, association or corporation affected has paid to such city, town or village for its exclusive use within the next preceding year, under any agreement therefor, or under any statute requiring the same, any sum based upon a percentage of gross earnings, or any other income, or any license fee, or any sum of money on account of such special franchise, granted to or possessed by such person, co-partnership, association or corporation, which payment was in the nature of a tax, all amounts so paid for the exclusive use of such city, town or village, except money paid or expended for paving or repairing of pavement of any street, highway or public place, shall be deducted from any tax based on the assessment made by the state board of tax commissioners for city, town or village purposes, but not otherwise; and the remainder shall be the tax on such special franchise payable

for city, town or village purposes. The chamberlain or treasurer of a city, the treasurer of a village, the supervisor of a town, or other officer to whom any sum is paid for which a person, co-partnership, association, or corporation is entitled to credit as provided in this section, shall, not less than five nor more than twenty days before a tax on a special franchise is payable, make and deliver to the collector or receiver of taxes or other officer authorized to receive taxes for such city, town or village, his certificate showing the several amounts which have been paid during the year ending on the day of the date of the certificate. On the receipt of such certificate the collector, receiver or other officer shall immediately credit on the tax roll to the person, co-partnership, association or corporation affected, the amount stated in such certificate, on any tax levied against such person, co-partnership, association or corporation on an assessment of a special franchise for city, town or village purposes only, but no credit shall be given on account of such payment or certificate in any other year, nor for a greater sum than the amount of the special franchise tax for city, town or village purposes, for the current year; and he shall collect and receive the balance, if any, of such tax as required by law. (*Added by chap. 712, Laws 1899, taking effect October 1, 1899.*)

SPECIAL FRANCHISE TAX NOT TO AFFECT OTHER TAX.

§ 47. The imposition or payment of a special franchise tax, as provided in this chapter, shall not relieve any association, copartnership or corporation from the payment of any organization tax or franchise tax or any other tax otherwise imposed by article nine of this chapter, or by any other provision of law; but tangible property subject to a special franchise tax situated in, upon, under or above any street, highway, public place or public waters, as described in subdivision three of section two shall not be taxable except upon the assessment made as herein provided by the state board of tax commissioners. (*Added by chap. 712, Laws 1899, taking effect October 1, 1899.*)

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**STATEMENT OF TAXES UPON CERTAIN CORPORATIONS BY
CLERK OF SUPERVISORS.**

§ 57. The clerk of each board of supervisors shall, within five days after the tax warrant is completed, deliver to the county treasurer, a statement showing the names, valuation of property and the amount of tax of every railroad corporation and telegraph, telephone and electric-light line in each tax district in the county, and on refusal or neglect so to do, shall forfeit to the county the sum of one hundred dollars, to be sued for by the district attorney in the name of the county.

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**PAYMENT OF TAXES BY RAILROAD AND CERTAIN OTHER
CORPORATIONS.**

§ 73. Any railroad, telegraph, telephone or electric-light company may, within thirty days after receipt of notice by the county treasurer from the clerk of the board of supervisors, pay its tax, with one per centum fees, to the county treasurer, who shall credit the same with such fees to the collector of the tax district, unless otherwise required by law. If not so paid the county treasurer shall notify the collector of the tax district where it is due, and he shall then proceed to collect under his warrant. Until such notice from the treasurer the collector shall not enforce payment of such taxes, but may receive the same, with the fees allowed by law, at any time.

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ORGANIZATION TAX.

§ 180. Every stock corporation incorporated under any law of this state shall pay to the state treasurer a tax of one-eighth of one per centum upon the amount of capital stock which the corporation is authorized to have, and a like tax upon any subsequent increase. Such tax shall be due and payable upon the incorporation of such corporation or upon the increase of its capital stock. Except in the case of a railroad corporation, neither the secretary of state nor county clerk shall file any certificate of incorporation or article of association, or give any certificate to any such corporation or association until he is furnished a receipt for such tax from the state treasurer, and no stock corporation shall have or exercise any corporate franchise or powers, or carry on business in this state until such tax shall have been paid. In case of the consolidation of existing corporations into a corporation, such new corporation shall be required to pay the tax hereinbefore provided for only upon the amount of its capital stock in excess of the aggregate amount of capital stock of said corporations. This section shall not apply to

state and national banks or to building, mutual loan, accumulating fund and co-operative associations. A railroad corporation need not pay such tax at the time of filing its certificate of incorporation, but shall pay the same before the railroad commissioners shall grant a certificate, as required by the railroad law, authorizing the construction of the road as proposed in its articles of association, and such certificate shall not be granted by the board of railroad commissioners until it is furnished with a receipt for such tax from the state treasurer. (*Thus amended by chap. 369, Laws 1897.*)

LICENSE TAX ON FOREIGN CORPORATIONS.

§ 181. Every foreign corporation, joint-stock company or association, except banking, fire, marine, casualty and life insurance companies, and corporations wholly engaged in carrying on manufactures in this state, co-operative fraternal insurance companies and building and loan associations, authorized to do business under the general corporation law, shall pay to the state treasurer, for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital stock employed by it within this state during the first year of carrying on its business in this state. No action shall be maintained or recovery had in any of the courts in this state by such foreign corporation without obtaining a receipt for the license fee hereby imposed within thirteen months after beginning such business within the state.

FRANCHISE TAX ON CORPORATIONS.

§ 182. Every corporation, joint-stock company or association incorporated, organized or formed under, by or pursuant to law in this state, shall pay to the state treasurer annually, an annual tax to be computed upon the basis of the amount of its capital stock employed within this state and upon each dollar of such amount, at the rate of one-quarter of a mill for each one per centum of dividends made and declared upon its capital stock during each year ending with the thirty-first day of October, if the dividends amount to six or more than six per centum upon the par value of such capital stock. If such dividend or dividends amount to less than six per centum on the par value of the capital stock, the tax shall be at the rate of one and one-half mills upon such portion of the capital stock

at par as the amount of capital employed within this state bears to the entire capital of the corporation. If no dividend is made or declared, the tax shall be at the rate of one and one-half mills upon each dollar of the appraised capital employed within the state. If such corporation, joint-stock company or association shall have more than one kind of capital stock, and upon one of such kinds of stock a dividend or dividends amounting to six, or more than six per centum, upon the par value thereof, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon, amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter of a mill for each one per centum of dividends made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto a tax shall be charged at the rate of one and one-half mills upon every dollar of the valuation made in accordance with the provisions of this act of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. Every corporation, joint-stock company or association organized, incorporated or formed under the laws of any other state or country, shall pay a like tax for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital employed by it within this state.

CERTAIN CORPORATIONS EXEMPT FROM TAX ON CAPITAL STOCK.

§ 183. Banks, savings banks, institutions for savings, insurance or surety corporations, laundry corporations, manufacturing corporations to the extent only of the capital actually employed in this state in manufacturing, and in the sale of the product of such manufacturing, mining corporations wholly engaged in mining ores within this state, agricultural and horticultural societies or associations, and corporations, joint stock companies or associations operating elevated railways or surface railroads not operated by steam, or formed for supplying water or gas for electric or steam heating, lighting or power purposes, and liable to a tax under sections one hundred and eighty-five and one hundred and eighty-six of this chapter shall be exempt from the payment of the taxes prescribed

by section one hundred and eighty-two of this chapter. This exemption shall not be construed to include title guaranty or trust companies. (*Thus amended by chap. 785, Laws 1897.*)

ADDITIONAL FRANCHISE TAX ON TRANSPORTATION AND TRANSMISSION CORPORATIONS AND ASSOCIATIONS.

§ 184. Every corporation and joint-stock association formed for steam surface railroad, canal, steamboat ferry, express, navigation, pipe-line, transfer, baggage express, telegraph, telephone, palace car or sleeping car purposes, and all other transportation corporations not liable to taxes under sections one hundred and eighty-five or one hundred and eighty-six of this chapter, shall pay for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, an annual excise tax or license fee which shall be equal to five-tenths of one per centum upon its gross earnings within the state, which shall include its gross earnings from its transportation or transmission business originating and terminating within this state, but shall not include earnings derived from business of an interstate character. All settlements for such taxes heretofore based by the comptroller upon gross earnings excluding earnings from interstate business, have been ratified and confirmed, except that the accounts for taxation under section six of chapter three hundred and sixty-one of the laws of eighteen hundred and eighty-one, for the years eighteen hundred and ninety-two and eighteen hundred and ninety-three, shall be settled and adjusted by the comptroller by excluding the earnings of an interstate character as provided by this section.

FRANCHISE TAX ON ELEVATED RAILROADS OR SURFACE RAILROADS NOT OPERATED BY STEAM.

§ 185. Every corporation, joint-stock company or association operating any elevated railroad or surface railroad not operated by steam shall pay to the state for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity within this state, an annual tax which shall be one per centum upon its gross earnings from all sources within this state, and three per centum upon the amount of dividends declared or paid in excess of four per centum upon the actual amount of paid-up capital employed by such corporation, joint-stock company or associa-

tion. Any corporation, joint-stock company or association taxed under this section which has paid a tax to the state for the year ending November first, eighteen hundred and ninety-five, under section three of chapter five hundred and forty-two of the laws of eighteen hundred and eighty, as amended by chapter five hundred and twenty-two of the laws of eighteen hundred and ninety, shall be credited by the comptroller with one-third of the amount so paid in computing the taxes to be paid for the year ending June thirtieth, eighteen hundred and ninety-six.

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REPORTS OF CORPORATIONS.

§ 189. Corporations liable to pay a tax under this article report as follows:

1. Corporations paying franchise tax.— Every corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter shall on or before November fifteenth in each year, make a written report to the comptroller of its condition at the close of its business on October thirty-first preceding, stating the amount of its authorized capital stock, the amount of stock paid in, the date and rate per centum of each dividend declared by it during the year ending with such day, the entire amount of the capital of such corporation, and the capital employed by it in this state during such year.

2. Transportation and transmission corporations.— Every transportation or transmission corporation, joint-stock company or association liable to pay an additional tax under section one hundred and eighty-four of this chapter, shall also, on or before August first in each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from all sources and the amount of its gross earnings from its transportation or transmission business originating and terminating within this state.

3. Elevated and surface railroad corporations.— Every corporation, joint-stock company or association liable to pay a tax under section one hundred and eighty-five of this chapter, shall, on or before August first of each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings

from business done in this state, the amount of dividends of every nature declared or paid during the year ending June thirtieth, the authorized capital of the company and the amount of capital stock actually issued and outstanding.

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VALUE OF STOCK TO BE APPRAISED.

§ 190. In case no dividend has been declared, by a corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter, the treasurer or secretary of the company, shall, under oath, between the first and fifteenth day of November in each year, estimate and appraise the capital stock of such company upon which no dividend has been declared, or upon which the dividend amounted to less than six per centum at its actual value in cash, not less, however, than the average price which said stock sold for during said year, and shall forward the same to the comptroller with the report provided for in the last section. If the comptroller is not satisfied with the valuation so made and returned he is authorized and empowered to make a valuation thereof, and settle an account upon the valuation so made by him, and the taxes, penalties and interest to be paid to the state.

FURTHER REQUIREMENTS AS TO REPORT OF CORPORATIONS.

§ 191. Every report required by this article shall have annexed thereto, the affidavit of the president, vice-president, secretary or treasurer of the corporation, association or joint-stock company or of the person or one of the persons, or the members of the partnership making the same, to the effect that the statements contained therein are true. Such reports shall contain any other data, information or matter which the comptroller may require to be included therein, and he may prescribe the form in which such reports shall be made and the form of oath thereto. When so prescribed such form shall be used in making the report. The comptroller may require at any time a further or supplemental report under this article, which shall contain information and data upon such matters as the comptroller may specify.

POWERS OF COMPTROLLER TO EXAMINE INTO AFFAIRS OF CORPORATIONS.

§ 192. In case any report required by any of the preceding sections of this article shall be unsatisfactory to the comptroller, or if

any such report is not made as herein required, the comptroller is authorized to make an estimate of the dividends paid by such corporation and the value of the capital stock employed by it, from any such report or from any other data, and to order and state an account according to the estimate and value so made by him for the taxes, percentages and interest due the state from such corporation, association, joint-stock company, person or partnership. The comptroller shall also have power to examine or cause to be examined in case of a failure to report or in case the report is unsatisfactory to him, the books and records of any such corporation, joint-stock association, company, foreign banker, person or partnership, and may hear testimony and take proofs material for his information, either personally or he may appoint a commissioner by a written appointment under his hand and official seal for that purpose. Every commissioner so appointed shall be authorized to make such examination and take such testimony and hear such proofs and report the proofs and testimony so taken and the result of his examination so made and the facts found by him to the comptroller. The comptroller shall, therefrom, or from any other data which shall be satisfactory to him, order and state an account for the tax due the state, together with the expenses of such examination and the taking of such testimony and proofs. Such expenses shall be fixed and adjusted by the comptroller.

NOTICE OF STATEMENT OF TAX; INTEREST.

§ 193. Upon auditing and stating every account for taxes or other charges under this article, the comptroller shall forthwith send notice thereof in writing to the person, partnership, company, association or corporation against whom the same is made, which notice may be mailed to the post-office address of such person, partnership, association, company or corporation. All accounts so audited and stated shall bear interest upon the total amount found due thereon to the state, for taxes, percentage, interest and other charges, from the expiration of thirty days after sending such notice until payment thereof shall be made.

PAYMENT OF TAX AND PENALTY FOR FAILURE.

§ 194. A tax imposed by sections one hundred and eighty-two or one hundred and eighty-six of this chapter, shall be due and pay-

able into the state treasury on or before the fifteenth day of January in each year. A tax imposed by section one hundred and eighty-four of this chapter on a transportation or transmission corporation, or by section one hundred and eighty-five, on elevated railroads or surface railroads not operated by steam, or by section one hundred and eighty-seven of this chapter on an insurance corporation, shall be due and payable into the state treasury on or before the first day of August in each year. A tax imposed by section one hundred and eighty-eight of this chapter on a foreign banker shall be due and payable into the state treasury on or before February first in each year. If such tax in any case is not paid within thirty days after the same becomes due, or if the report of any such corporation is not made within the time required by this article, the corporation, association, joint-stock company, person or partnership, liable to pay the tax, shall pay into the state treasury in addition to the amount of such tax, a sum equal to five per centum thereof, and one per centum additional for each month the tax remains unpaid, which sum shall be added to the tax and paid or collected therewith. Every corporation, association, joint-stock company, person or partnership failing to make the annual report required by this article, or failing to make any special report required by the comptroller, within any reasonable time to be specified by him, shall forfeit to the people of the state the sum of one hundred dollars for every such failure, and the additional sum of ten dollars for each day that such failure continues. Such tax shall be a lien upon and bind all the real and personal property of the corporation, joint-stock company or association liable to pay the same from the time when it is payable until the same is paid in full.

REVISION AND READJUSTMENT OF ACCOUNTS BY COMPTROLLER.

§ 195. The comptroller may, at any time within one year from the time any such account shall have been audited and stated, and notice thereof sent to the person, partnership, company, association or corporation against whom it is stated, revise and readjust such account upon application therefor by the party against whom the account is stated or by the attorney-general, and if it shall be made to appear upon any such application by evidence submitted to him or otherwise, that any such account included taxes or other charges which

could not have been lawfully demanded, or that payment has been legally made or exacted of any such account, he shall resettle the same according to law and the facts, and charge or credit, as the case may require, the difference, if any, resulting from such revision or resettlement upon the accounts for taxes of or against any such person, partnership, company, association or corporation. The comptroller shall forthwith send written notice of its determination upon such application to the applicant, which notice may be sent by mail to his post-office address.

REVIEW OF DETERMINATION OF COMPTROLLER BY CERTIORARI.

§ 196. The determination of the comptroller upon any application made to him by any person, partnership, company, association or corporation for a revision and resettlement of any account, as prescribed in this article, may be reviewed both upon the law and the facts, upon certiorari by the supreme court at the instance of any person, partnership, company, association or corporation affected thereby, and in the name and on behalf of the people of the state. For the purpose of such review the comptroller shall return, on such certiorari, the accounts and all the evidence before him on such application, and all the papers and proofs upon the original statement of such account and all proceedings thereon. If the original or resettled accounts shall be found erroneous or illegal, either in point of law or of fact, by the supreme court, upon any such review, the accounts reviewed shall then be corrected and restated, and from any determination of the supreme court upon any such review, an appeal to the court of appeals may be taken by either party.

REGULATIONS AS TO SUCH WRIT OF CERTIORARI.

§ 197. No certiorari to review any audit and statement of an account or any determination by the comptroller under this article, shall be granted unless notice of application therefor is made within thirty days after the service of the notice of such determination. Eight days' notice shall be given to the comptroller of the application for such writ. The full amount of the taxes, percentage, interest and other charges, audited and stated in such account, must be deposited with the state treasurer before making the application and an undertaking filed with the comptroller in such amount and with such sureties as a justice of the supreme court shall approve, to

the effect that if such writ is dismissed or the determination of the comptroller affirmed, the applicant for the writ will pay all costs and charges which may accrue against him, or if in the prosecution of the writ, including costs of all appeals.

WARRANT FOR THE COLLECTION OF TAXES.

§ 198. After the expiration of thirty days from the sending by the comptroller of a notice of a statement of an account as provided in this article, unless the amount of such account shall have been paid or deposited with the state treasurer, if an appeal or other proceeding have been taken to review the same, and the undertaking given as provided in this article, the comptroller may issue a warrant under his hand and official seal, directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the person, partnership, company, association or corporation against which such account is stated, found within his county for the payment of the amount thereof with interest thereon and costs of executing the warrant, and to return such warrant to the comptroller and pay to the state treasurer the money collected by virtue thereof, by a time to be therein specified, not less than sixty days from the date of the warrant. Such warrant shall be a lien upon and shall bind the real and personal property of the person, partnership, company, association or corporation against which it is issued, from the time an actual levy shall be made by virtue thereof. The sheriff to whom any such warrant shall be directed shall proceed upon the same in all respects, with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner.

INFORMATION OF DELINQUENTS.

§ 199. It shall be the duty of any person having knowledge of the evasion of taxation under this article by any corporation, association, joint-stock company, partnership or person liable to taxation thereunder, for any omission on their part to make the reports required by this article, to make a written report thereof to the comptroller of the state, with such information as may be in his possession as may lead to the recovery of any taxes due the state therefrom. If, in his

opinion, the interests of the state require it, the comptroller may employ such person to assist in the collection and preparation of evidence and in the prosecution and trial of actions for such taxes, and so much of the same, not exceeding ten per centum thereof, as may be collected from any such delinquent corporation, association, company, partnership or person, by reason of such report and such services, as shall have been agreed upon between such person and the comptroller or attorney-general as a compensation therefor, shall be paid to such person, and nothing shall be paid to such person for such report or services unless there shall be a recovery of taxes by reason thereof.

ACTION FOR RECOVERY OF TAXES; FORFEITURE OF CHARTER OF DELINQUENT CORPORATION.

§ 200. An action may be brought by the attorney-general, at the instance of the comptroller, in the name of the state, to recover the amount of any account audited and stated by the comptroller under the provisions of this article. If any such account shall remain unpaid at the expiration of one year after notice of the statement thereof has been sent as required by this article, and the comptroller is satisfied that the failure to pay the same is intentional, he shall so report to the attorney-general, who shall immediately bring an action, in the name of the people of the state, for the forfeiture of the franchise of any corporation, joint-stock company or association failing to make such payment, and if it is found that such failure was intentional, judgment shall be rendered in such action for the forfeiture of its franchise and for its dissolution, and thereafter such franchise shall be annulled.

REPORTS TO BE MADE BY THE SECRETARY OF STATE.

§ 201. The secretary of state shall transmit on the first day of each month to the comptroller, a report of the stock corporations whose certificates of incorporation are filed, or of the foreign stock corporations to whom a certificate of authority has been issued to do business in this state, during the preceding month. Such report shall state the name of the corporation, its place of business, the amount of its capital stock, its purposes or objects, the names and places of residence of its directors, and, if a foreign corporation, its place of business within the state. The comptroller may prescribe the forms and furnish the blanks for such reports. The secretary of state shall

make like reports to the comptroller whenever required by him relating to any such corporations whose certificates have been filed or to whom a certificate of authority has been issued prior to the time when this article takes effect, and during any period of time specified by the comptroller in his request for such report.

EXEMPTIONS FROM OTHER STATE TAXATION.

§ 202. The personal property of every corporation, company, association or partnership taxable under this article, other than for an organization tax, shall be exempt from assessment and taxation upon its personal property for state purposes, if all taxes due and payable under this article have been paid thereby. The personal property of a private or individual banker, actually employed in his business as such banker, shall be exempt from taxation for state purposes, if such private or individual banker shall have paid all taxes due and payable under this article. Such corporation and private or individual banker shall in no other respect be relieved from assessment and taxation by reason of the provisions of this article.

APPLICATION OF TAXES.

§ 203. The taxes imposed by this article and the revenues thereof shall be applicable to the general fund of the treasury and to the payment of all claims and demands which are a lawful charge thereon.

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LIABILITY OF CERTAIN CORPORATIONS TO TAX.

§ 228. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county or the comptroller of the city of New York on the transfer thereof. No safe deposit company, bank or other institution, person or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent unless notice of the time and place of such intended transfer be served upon the county treasurer or comptroller at least five days prior to the said transfer. And it shall be lawful for the said county treasurer or comptroller, personally or by representa-

tive, to examine said securities or assets at the time of such delivery or transfer. Failure to serve such notice or to allow such examination shall render said safe deposit company, trust company, bank or other institution, person or persons liable to the payment of the tax due upon said securities or assets in pursuance of the provisions of this article.

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APPLICATION OF TAXES.

§ 241. All taxes levied and collected under this article shall be paid into the treasury of the state for the use of the state, and shall be applicable to the expenses of the state government and to such other purposes as the legislature shall by law direct.

DEFINITIONS.

§ 242. The words "estate" and "property," as used in this article, shall be taken to mean the property or interest therein of the testator, intestate, grantor, bargainor or vendor, passing or transferred to those not herein specifically exempted from the provisions of this article, and not as the property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees or vendees, and shall include all property or interest therein, whether situated within or without this state. The word "transfer," as used in this article, shall be taken to include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, devise, bequest, grant, deed, bargain, sale or gift, in the manner herein prescribed. The words "county treasurer," "comptroller," and "district attorney," as used in this article, shall be taken to mean the treasurer, comptroller or district attorney of the county of the surrogate having jurisdiction as provided in section two hundred and twenty-nine of this article. (*Thus amended by chap. 88, Laws of 1898.*)

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CONTENTS OF PETITION.

§ 250. Any person assessed upon any assessment-roll, claiming to be aggrieved by any assessment for property therein, may present to the supreme court a petition duly verified setting forth that the assessment is illegal, specifying the grounds of the alleged illegality, or if erroneous by reason of overvaluation, stating the extent of such

overvaluation, or if unequal in that the assessment has been made at a higher proportionate valuation than the assessment of other property on the same roll by the same officers, specifying the instances in which such inequality exists, and the extent thereof, and stating that he is or will be injured thereby. Such petition must show that application has been made in due time to the proper officers to correct such assessment. Two or more persons assessed upon the same roll who are affected in the same manner by the alleged illegality, error or inequality, may unite in the same petition.

ALLOWANCE OF WRIT OF CERTIORARI.

§ 251. Such petition must be presented to a justice of the supreme court or at a special term of the supreme court in the judicial district in which the assessment complained of was made, within fifteen days after the completion and filing of the assessment-roll and the first posting or publication of the notice thereof as required by this chapter. Upon the presentation of such petition, the justice or court may allow a writ of certiorari to the officers making the assessment, to review such assessment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days, and may be extended by the court or a justice thereof. Such writ shall be returnable to a special term of the supreme court of the judicial district in which the assessment complained of was made. The allowance of the writ shall not stay the proceedings of the assessors or other persons to whom it is directed or to whom the assessment is delivered, to be acted upon according to law.

RETURN OF WRIT.

§ 252. The officers making a return to such writ shall not be required to return the original assessment-roll or other original papers acted upon by them, but it shall be sufficient to return certified or sworn copies of such roll or papers, or of such portions thereof as may be called for by such writ. The return must concisely set forth such other facts as may be pertinent and material to show the value of the property assessed on the roll and the grounds for the valuation made by the assessing officers and the return must be verified.

PROCEEDINGS UPON RETURN.

§ 253. If it shall appear upon the return to any such writ that the assessment complained of is illegal or erroneous or unequal for any

of the reasons alleged in the petition, the court may order such assessment, if illegal, to be stricken from the roll, or if erroneous or unequal, it may order a re-assessment of the property of the petitioner, or the correction of his assessment upon the roll, in whole or in part, in such manner as shall be in accordance with law, or as shall make it conform to the valuations and assessments of other property upon the same roll and secure equality of assessment. If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or may appoint a referee to take such evidence as it may direct, and report the same to the court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. A new assessment or correction of an assessment made by order of the court shall have the same force and effect as if it had been so made by the proper officers within the time prescribed by law for making such assessment.

COSTS.

§ 254. Costs shall not be allowed against the officers whose proceedings may be reviewed under any such writ unless it shall appear to the court that they acted with gross negligence or in bad faith or with malice in making the assessment complained of. If the writ shall be quashed or the prayer of the petitioner denied, costs shall be awarded against the petitioner, not exceeding the costs and disbursements taxable in an action upon the trial of an issue of fact in the supreme court.

APPEALS.

§ 255. An appeal may be taken by either party from an order, judgment or determination under this article as from an order, and it shall be heard and determined in like manner as appeals in the supreme court from orders. All issues and appeals in any proceeding under this article shall have preference over all other civil actions and proceedings in all courts.

REFUND OF TAX PAID UPON ILLEGAL, ERRONEOUS OR UNEQUAL ASSESSMENT.

§ 256. If in a final order in any such proceeding it shall be ordered or adjudged that the assessment complained of was illegal, erro-

neous or unequal, and such order shall not be made in time to enable the assessors or other officers to make a new or corrected assessment for the use of the board of supervisors, then at the first annual session of the board of supervisors after such correction there shall be audited and allowed to the petitioner and included in the tax levy of such town, village or city, made next after the entry of such order, and paid to the petitioner, the amount paid by him, in excess of what the tax would have been if the assessment had been made as determined by such order of the court, together with interest thereon from the date of payment. In case the amount deducted from such assessment by such order exceeds ten thousand dollars, so much thereof as shall be refunded by reason of such corrected assessment, other than the proportion or percentage thereof collected for such town, village or city purposes, shall be levied upon the county at large and paid to the petitioner without further audit. The board of supervisors shall audit and levy upon such town, village or city, the proportion or percentage of such excess of tax collected for such town, village or city purposes, which shall be collected and paid to the petitioner without other or further audit.

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SUPPLEMENTARY PROCEEDINGS TO COLLECT TAX.

§ 259. If a tax exceeding ten dollars in amount levied against a person or corporation is returned by the proper collector uncollected for want of personal property out of which to collect the same, the supervisor of the town or ward, or the county treasurer or the president of the village, if it is a village tax, may, within one year thereafter, apply to the court for the institution of proceedings supplementary to execution, as upon a judgment docketed in such county, for the purpose of collecting such tax and fees, with interest thereon from the fifteenth day of February after the levy thereof. Such proceedings may be taken against a corporation, and the same proceedings may thereupon be had in all respects for the collection of such tax as for the collection of a judgment by proceedings supplementary to execution thereon against a natural person, and the same costs and disbursements may be allowed against the person or corporation examined as in such supplementary proceedings but none shall be allowed in his or its favor. The tax, if collected in such proceeding, shall be paid to the county treasurer or to the

supervisor of the town, and if a village tax, to the treasurer of the village. The costs and disbursements collected shall belong to the party instituting the proceedings, and shall be applied to the payment of the expense of such proceeding. The president of a village and a county treasurer shall have no compensation for any such proceeding. A supervisor shall have no other compensation except his per diem pay for time necessarily spent in the proceeding.

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ATTORNEY-GENERAL TO BRING ACTION FOR SEQUESTRATION.

§ 263. It shall be the duty of the attorney-general, on being informed by the comptroller or by the county treasurer of any county that any incorporated company refuses or neglects to pay the taxes imposed upon it, pursuant to articles one and two of this chapter, to bring an action in the supreme court for the sequestration of the property of such corporation, and the court may so sequester the property of such corporation for the purpose of satisfying taxes in arrear with the costs of prosecution, and may, also, in its discretion, enjoin such corporation and further proceedings under its charter until such tax and the costs incurred in the action shall be paid. The attorney-general may recover such tax with costs from such delinquent corporation by action in any court of record.

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LAWS REPEALED.

§ 280. Of the laws enumerated in the schedule hereto annexed that portion specified in the last column is repealed.

WHEN TO TAKE EFFECT.

§ 281. This chapter shall take effect June fifteenth, eighteen hundred and ninety-six.

SCHEDULE OF LAWS REPEALED.

Revised Statutes.		Sections.
Part I, ch. 13.....		All, except § 7 of tit. VI.
Part III, ch. 8, tit. XVII.....		§§ 28, 29, 30.
Laws of	Chapter.	Sections.
1835.....	II.....	All.
1836.....	461.....	All.
1841.....	341.....	All.
1842.....	154.....	All.
1842.....	318.....	All.

Laws of	Chapter.	Sections.
1845.....	180.....	29, 30, 31, 32.
1846.....	327.....	All.
1847.....	455.....	16.
1847.....	482.....	All.
1849.....	180.....	All.
1851.....	176.....	All.
1851.....	371.....	All.
1852.....	46.....	All.
1852.....	282.....	All.
1853.....	69.....	All.
1853.....	406.....	All.
1853.....	469.....	All.
1854.....	393.....	All.
1855.....	37.....	All.
1855.....	83.....	All.
1855.....	327.....	All.
1855.....	427.....	All.
1856.....	183.....	All.
1857.....	7.....	All.
1857.....	456.....	All.
1857.....	536.....	All.
1857.....	585.....	All.
1858.....	110.....	All.
1858.....	357.....	All.
1859.....	312.....	All.
1860.....	209.....	All.
1862.....	194.....	All.
1862.....	285.....	1.
1865.....	453.....	All.
1866.....	136.....	All.
1866.....	528.....	All.
1866.....	820.....	All.
1867.....	361.....	All.
1867.....	694.....	All.
1868.....	575.....	All.
1869.....	859.....	All.
1870.....	280.....	All.
1870.....	375.....	All.
1870.....	492.....	Extract from § 2, authorizing comp- troller to desig- nate papers in which notice of sale of lands for non-payment of taxes shall be published.
1870.....	506.....	2, 3, 4, 5.
1871.....	110.....	All.
1873.....	327.....	All.

Laws of	Chapter.	Sections.
1873.....	809.....	All.
1874.....	351.....	All.
1875.....	331.....	All.
1875.....	466.....	All.
1875.....	474.....	All.
1876.....	49.....	All.
1876.....	96.....	All.
1876.....	101.....	All.
1878.....	152.....	All.
1879.....	492.....	All.
1880.....	80.....	All.
1880.....	91.....	All.
1880.....	269.....	All.
1880.....	327.....	All.
1880.....	448.....	All.
1880.....	542.....	All.
1880.....	552.....	All.
1881.....	8.....	All.
1881.....	166.....	All.
1881.....	293.....	All.
1881.....	361.....	All.
1881.....	402.....	5.
1881.....	433.....	All.
1881.....	640.....	All.
1882.....	151.....	All.
1882.....	409.....	312-327 inclusive
1883.....	342.....	All.
1883.....	392.....	All.
1883.....	397.....	All.
1883.....	464.....	All.
1884.....	57.....	All.
1884.....	153.....	All.
1884.....	280.....	All.
1884.....	353.....	All.
1884.....	414.....	All.
1884.....	435.....	All.
1884.....	537.....	All.
1885.....	10.....	All.
1885.....	32.....	All.
1885.....	201.....	All.
1885.....	215.....	All.
1885.....	340.....	12.
1885.....	359.....	All.
1885.....	411.....	All.
1885.....	453.....	All.
1885.....	501.....	All.
1886.....	59.....	All.
1886.....	102.....	All.
1886.....	143.....	All.

Laws of	Chapter.	Sections.
1886.....	266.....	All.
1886.....	315.....	All.
1886.....	659.....	1, 2, 3, 5, 6.
1886.....	679.....	All.
1887.....	284.....	All.
1887.....	342.....	All.
1888.....	110.....	All.
1889.....	191.....	All.
1889.....	193.....	All.
1889.....	353.....	All.
1889.....	462.....	All.
1889.....	463.....	All.
1889.....	469.....	All.
1889.....	563.....	All.
1890.....	145.....	All.
1890.....	174.....	All.
1890.....	206.....	All.
1890.....	497.....	All.
1890.....	522.....	All.
1890.....	553.....	All.
1890.....	556.....	All.
1891.....	163.....	All.
1891.....	211.....	All.
1891.....	218.....	All.
1892.....	196.....	All.
1892.....	202.....	I.
1892.....	266.....	All.
1892.....	347.....	All.
1892.....	399.....	All.
1892.....	463.....	All.
1892.....	477.....	All.
1892.....	529.....	All.
1892.....	565.....	All.
1892.....	661.....	All.
1892.....	668.....	All.
1892.....	713.....	All.
1892.....	714.....	All.
1893.....	199.....	All.
1893.....	498.....	All.
1893.....	525.....	All.
1893.....	704.....	All.
1893.....	711.....	All.
1894.....	196.....	All.
1894.....	312.....	All.
1894.....	562.....	All.
1894.....	713.....	All.
1895.....	378.....	All.
1895.....	418.....	All.
1895.....	425.....	All.
1895.....	515.....	All.

Laws of	Chapter.	Sections.
1895	556	All.
1895	558	All.
1895	608	All.
1895	895	All.
Fisheries, Game and Forest Law		274.

CHAP. 79, LAWS OF 1898.

AN ACT to amend chapter seven hundred and sixty-six of the laws of eighteen hundred and ninety-seven, entitled "An act to abolish fine and imprisonment for non-payment of taxes."

SECTION 1. Chapter seven hundred and sixty-six of the laws of eighteen hundred and ninety-seven is hereby amended so as to read as follows:

§ 1. Neglect or refusal to pay any tax shall not be punishable as a contempt or as misconduct; and no fine shall be imposed for such non-payment, nor shall any person be imprisoned or otherwise punishable on account of non-payment of any tax, or of any fine imposed for refusal or neglect to pay such tax.

§ 2. This act shall not apply to proceedings supplementary to execution upon judgments recovered for taxes.

*§ 2. All acts and parts of acts, inconsistent with this act, are hereby repealed.

* So in original.

Bonding of Towns, and Railroad Aid Debts.

ARTICLE VIII.—SECTION 10, CONSTITUTION OF THE STATE OF NEW YORK. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation; or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become in-

debted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Whenever hereafter the boundaries of any city shall become the same as those of a county, the power of the county to become indebted shall cease, but the debt of the county at that time existing shall not be included as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

CHAP. 685, LAWS OF 1892.

AN ACT in relation to municipal corporations, constituting chapter seventeen of the general laws.

THE GENERAL MUNICIPAL LAW.

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FUNDED AND BONDED DEBTS.

§ 7. The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of the new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only be issued when the

existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of five per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds, stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town," which shall be conclusive evidence of such fact." The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised. (*Thus amended by chap. 54, Laws 1897.*)

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**MUNICIPAL TAXES OF RAILROADS PAYABLE TO THE COUNTY
TREASURER.**

§ 12. If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction

of a railroad therein, so much of all taxes as shall be necessary to take up such bonds, except school district and highway taxes, collected on the assessed valuation of such railroad in such municipal corporation, shall be paid over to the treasurer of the county in which the municipal corporation is located. Such treasurer shall purchase with such moneys of any town, village or city, such bonds, when they can be purchased at or below par, and shall immediately cancel them in the presence of the county judge. If such bonds can not be purchased at or below par, such treasurer shall invest such money in the bonds of the United States, of the state of New York, or of any town or village or city of such state, issued pursuant to law; and shall hold such bonds as a sinking fund for the redemption and payment of such outstanding railroad aid bonds. If a county treasurer shall unreasonably neglect to comply with this section any taxpayer of the town, village or city having so issued its bonds may apply to the county judge of the county in which such municipal corporation is situated, for an order compelling such treasurer to execute the provisions of this section. The county treasurer of any county in which one or more towns therein shall have issued bonds for railroad purposes, shall, when directed by the board of supervisors or county judge of the county, execute and file in the office of the county clerk an undertaking, with not less than two sureties, approved by such board or judge, to the effect that he will faithfully perform his duties pursuant to this section. The annual report of a county treasurer shall fully state, under the head of "railroad sinking fund," the name and character of all such investments made by him or his predecessors, and the condition of such fund. (*Thus amended by chap. 466, Laws of 1893.*)

ABOLITION OF OFFICE OF RAILROAD COMMISSIONERS.

§ 13. The board of supervisors of any county may, upon the application of the auditing board of any municipal corporation therein by resolution, abolish the office of railroad commissioners of such municipal corporation, and direct the manner of the transfer of their duties to the supervisor of the town, or the treasurer of the municipal corporation other than a town, and upon his compliance with such directions, such transferee shall be vested with all the powers conferred upon such railroad commissioners and subject to all the duties imposed upon them.

APPOINTMENT OF RAILROAD COMMISSIONERS.

§ 14. The county judge of any county within which is a municipal corporation having or being entitled to have railroad commissioners,

when this chapter shall take effect, and in which the duties imposed upon such commissioners are not fully performed, shall continue to appoint and commission, upon the application of twenty freeholders within such corporation, three persons, who shall be freeholders and resident taxpayers therein, commissioners for the purpose of performing the duties and completing the business required of them pursuant to this chapter or any law. Such commissioners shall hold their office for five years, and until others are appointed by the county judge, unless their duties shall be sooner performed, or the office shall be abolished, who shall also in like manner, fill any vacancies that may exist therein. Such commissioners shall each receive the sum of three dollars per day for each day actually engaged in the discharge of their duties, and the necessary disbursements to be audited and paid by the usual auditing and disbursing officers of such municipal corporation. A majority of such commissioners, at a meeting of which all have notice, shall constitute a quorum.

OATH AND UNDERTAKING OF COMMISSIONERS.

§ 15. Before entering upon their duties such commissioners shall take the constitutional oath of office, and make and file with the county clerk of their county, their joint and several undertaking, with two or more sureties to be approved by the county judge of their county, to the effect that they will faithfully discharge their duties as such commissioners, and truly keep, pay over and account for all moneys belonging to such corporation coming into their hands.

EXCHANGE OR SALE OF RAILROAD STOCK AND BONDS.

§ 16. The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stock or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they can not make such exchange they may sell such stocks or bonds at not less than par; but they may, on the application and with the approval of the governing board of the municipal corporation, owning such stock and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable for the

municipal corporation they represent, and shall execute to the purchaser the necessary transfers therefor. All moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad, or substituted therefor, except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or balance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board of the municipal corporation entitled to the same, may direct. The provisions of this section shall apply to all such commissioners or officers of a municipal corporation elected or appointed or acting under the provisions of any special act, and the authority hereby conferred shall not be limited by the provisions of any such special act. (*Thus amended by chap. 490, Laws of 1893.*)

ANNUAL REPORT OF COMMISSIONERS AND PAYMENT OF BONDS.

§ 17. The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation, the total amount of the municipal indebtedness of the municipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall be forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing board of the municipal corporation, at least five days before the annual town meeting, village, or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled. (*Thus amended by chapter 466, Laws of 1893.*)

ACCOUNTS AND LOANS BY COMMISSIONERS.

§ 18. Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the municipal corporation they represent, or in bonds of the state, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virtue of their office, and not needed for current liabilities; and all earnings, profits or interest accruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof.

REISSUE OF LOST OR DESTROYED BONDS.

§ 19. When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the ones so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that it is issued as a duplicate thereof, and that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clerk's office.

* * * * *

CHAP. 336, LAWS OF 1899.

AN ACT to confer jurisdiction upon the court of claims to hear, audit and determine the alleged claims of the several counties containing towns, villages or cities bonded to aid in the construction of any railroad passing through such towns, villages or cities, on account of the payment to the state of the state taxes collected from such railroads within such bonded towns, villages or cities.

SECTION 1. Any county of this state, containing one or more towns, villages or cities which have heretofore issued bonds to aid in the construction of any railroad passing through such towns, cities or villages, may present to the court of claims a claim for the amount of state taxes collected from or paid by any such railroad within the several towns, villages or cities of such county which were so bonded to aid in the construction of any such railroad, since the eighteenth day of May, eighteen hundred and sixty-nine, and which said taxes were paid by the county treasurer of such county to the state treasurer. Jurisdiction is hereby conferred upon the court of claims to hear, audit and determine such claims and to make awards and render judgments therefor against the state and in favor of such claimants, without interest thereon.

§ 2. The amount which shall be awarded to any county as provided in section one of this act, shall be paid to the county treasurer of such county; and such county treasurer shall invest and apply the same in the manner and for the purposes provided by section four of chapter nine hundred and seven of the laws of eighteen hundred and sixty-nine, entitled "An act to amend an act, entitled 'An act to authorize the formation of railroad companies and to regulate the same,' passed April second, eighteen hundred and fifty, so as to permit municipal corporations to aid in the construction of such railroads," and the acts amendatory thereof; except that in case such county shall have heretofore paid to any such town, village or city, such state taxes or any portion thereof, or in case such county treasurer has heretofore set aside such state taxes or

any portion thereof, for the benefit of such town, village or city, in the manner provided by said section four of chapter nine hundred and seven of the laws of eighteen hundred and sixty-nine and the acts amendatory thereof, then and in that case, such moneys or the portion thereof so paid or set aside as aforesaid, shall be used and applied by such county treasurer for the general purposes of the county.

§ 3. No award shall be made or judgment rendered herein against the state, unless the facts proved shall make out a case against the state, which would create a liability, were the same established in a court of law or equity against an individual or corporation or municipality; and in case such liability shall be satisfactorily established, then the court of claims shall award to and render judgment for the claimants for such sums as shall be just and equitable, notwithstanding the lapse of time since the accruing of said damages, provided any claim hereunder shall be filed with the court of claims within one year after the passage of this act.

The Code of Criminal Procedure of the State of New York.

SECTIONS APPLICABLE TO RAILROAD COMPANIES.

(As amended to and including the session of the Legislature of 1897.)

COURT OF SPECIAL SESSIONS, JURISDICTION OF.

§ 56. Subject to the power of removal provided for in this chapter, courts of special sessions, except in the city and county of New York and the city of Albany, have in the first instance exclusive jurisdiction to hear and determine charges of misdemeanors committed within their respective counties, as follows:

* * * * *

9. Intoxication of a person engaged in running any locomotive engine upon any railroad, or while acting as conductor of a car, or train of cars, on any such railroad, or a misdemeanor committed by any person on a railroad car or train.

* * * * *

23. Unlawfully frequenting or attending a steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store, auction sale at private residence, passenger car, hotel, restaurant, or any other gathering of people.

* * * * *

35. For all violations of the provisions of the domestic commerce laws.

OF CRIME COMMITTED IN THE STATE ON BOARD ANY RAILWAY TRAIN, ETC.

§ 137. When a crime is committed in this state, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this state, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the

railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

PLEA OF GUILTY, HOW PUT IN.

§ 335. A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

§ 613. If chattels, books, papers or documents be required, a direction to the following effect must be contained in the subpoena: "And you are required also to bring with you the following" (describing intelligibly the chattels, books, papers or documents required). (*Thus amended by chap. 547, Laws of 1897, taking effect Sept. 1st, 1897.*)

SUMMONS UPON AN INFORMATION OR PRESENTMENT AGAINST A CORPORATION, BY WHOM ISSUED, AND WHEN RETURNABLE.

§ 675. Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons.

FORM OF THE SUMMONS.

§ 676. The summons must be in substantially the following form:
"County of *Albany*, [or as the case may be.]

"In the name of the people of the State of New York:

"To the [naming the corporation.]

"You are hereby summoned to appear before me, at [naming the place], on [specifying the day and hour], to answer a charge made against you, upon *the information of A. B.*, for [designating the offense, generally.]

"Dated at the *city*, [or 'town,'] of the day of , 18 .

"G. H., *Justice of the Peace.*"

[Or as the case may be.]

WHEN AND HOW SERVED.

§ 677. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

EXAMINATION OF THE CHARGE.

§ 678. At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

**CERTIFICATE OF THE MAGISTRATE, AND RETURN THEREOF
WITH DEPOSITIONS.**

§ 679. After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

**GRAND JURY MAY PROCEED AS IN THE CASE OF A NATURAL
PERSON.**

§ 680. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

§ 681. When an indictment is filed against any corporation, such corporation must be arraigned thereon, and the court acquires jurisdiction over the corporation, in the manner following:

1. The clerk of the court wherein such indictment is found, or to which it is sent or removed, or the district attorney of the county, must issue a summons signed by him with his name of office, requiring such corporation to appear and answer the indictment by a demurrer or written plea to be verified in like manner as a pleading in a civil action, at a time and place to be specified in such summons, such time to be not less than five days after the issue thereof. The summons may be substantially in the following form:

Supreme court, county of _____, (state the
proper county or court as the case may be)
The People of the State of New York
vs.
The A. B. Company.

You are hereby summoned to appear in this court and, by demurrer or plea in writing duly verified, answer an indictment filed against you by the grand jury of this county, on the _____ day of _____, charging you with the crime of (designating the offense generally), at a term of the supreme court (or as the case may be) of this county, at (naming the place) on (stating the day and hour) and in case of your failure to so appear and answer, judgment will be pronounced against you.

Dated at the city (or town) of _____, the _____ day of _____ 18 ____
C. D.,

District Attorney.

(or by order of the court, E. F., Clerk, as the case may be.)

2. The summons must be served at least four days before the appearance fixed therein, in the same manner as is provided for the service of a summons upon a corporation in a civil action; and if the corporation does not appear in the manner and at the time and place specified in the summons, judgment must be pronounced against it.

3. Nothing contained in this section shall be construed as preventing the appearance of a corporation by counsel to answer an indictment, without the issuance or service of the summons as above provided. And when an indictment shall have been filed against a corporation it may voluntarily appear and answer the same by counsel duly authorized to so appear for it; in which case the court acquires full jurisdiction over the corporation in the same manner as if the summons had been issued and served.

§ 682. When a fine is imposed upon a corporation upon conviction, it may be collected in the same manner as a judgment in a civil action, and if an execution issued upon such judgment be returned unsatisfied, the district attorney of the county may thereupon bring an action in the name of the people of the state of New York, to procure a judgment sequestering the property of the corporation, as provided by the Code of Civil Procedure.

TRAMP DEFINED.

§ 887a. A tramp is any person, not blind, over sixteen years of age, and who has not resided in the county in which he may be at any time for a period of six months prior thereto, who

1. Not having visible means to maintain himself, lives without employment; or

2. Wanders abroad and begs, or goes about from door to door, or places himself in the streets, highways, passages or public places to beg or receive alms; or

3. Wanders abroad and lodges in taverns, groceries, ale-houses, watch or station houses, outhouses, market places, sheds, stables, barns or uninhabited buildings, or in the open air, and does not give a good account of himself.

Chap. 664, Laws of 1898.

CHAP. 664, LAWS OF 1898.

§ 5. Sections two and six of chapter four hundred and ninety of the laws of eighteen hundred and eighty-five, entitled "An act concerning tramps," are hereby repealed.

§ 6. This act shall not apply to cities of the first and second class.

See chap. 490, Laws of 1885, *ante*.

EXAMINATION AS TO RESIDENCE

§ 889. When complaint is made to any magistrate by any citizen or peace officer against a person under sections one, five or six of section eight hundred and eighty-seven, the magistrate must, upon the examination of such person, cause testimony to be taken as to his residence, and if it appears that such person has not resided in the county for a period of six months prior to his arrest, such magistrate shall not commit such person as a vagrant, as provided by this article; but if he finds that such person is guilty of an offense charged in one of such subdivisions, and such person is not blind or under sixteen years of age, the magistrate shall adjudge him to be a tramp, and commit him to a penitentiary, as required by law. On such examination the uncorroborated testimony of the defendant as to his place of residence shall not be deemed sufficient proof thereof.

Chap. 664, Laws of 1898.

The Penal Code of the State of New York.

PORTIONS THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

(As amended to and including the session of the Legislature of 1897.)

PUNISHMENTS; HOW DETERMINED.

§ 13. Whenever in this code the punishment for crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court authorized to pass sentence within such limits as may be prescribed by this code. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable with imprisonment, as for a felony, such corporation is punishable by a fine of not more than five thousand dollars.

REFUSAL TO PERMIT EMPLOYEES TO ATTEND ELECTION.

§ 41f. A person or corporation who refuses to an employe entitled to a vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

DURESS AND INTIMIDATION OF VOTERS.

§ 41h

3. Being an employer, pays his employes the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any hand-bill or placard containing any threat, notice or information that if any particular ticket or candidate is elected or defeated work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

See also section 109, Election Law.

MAKING ARRESTS, ETC., WITHOUT LAWFUL AUTHORITY

§ 119. No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policeman or

other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policemen, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him. Any person or persons who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, or any person who knowingly violates any other provision of this section, is guilty of a misdemeanor. But nothing herein contained shall be deemed to effect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the Code of Criminal Procedure; or under chapter three hundred and forty-six of the Laws of eighteen hundred and sixty-three, as amended by chapter two hundred and fifty-nine of the Laws of eighteen hundred and sixty-six, and chapter one hundred and ninety-three of the Laws of eighteen hundred and seventy-five; or under chapter two hundred and twenty-three of the Laws of eighteen hundred and eighty; or under chapter five hundred and twenty-seven of the Laws of eighteen hundred and seventy-three; or under chapter two hundred and five of the Laws of eighteen hundred and seventy-five; but all places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this act.

COMPELLING EMPLOYEES TO AGREE NOT TO JOIN ANY LABOR ORGANIZATION A MISDEMEANOR

§ 171a. Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employe or employes, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employe, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment

in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

MURDER IN THE FIRST DEGREE.

§ 183a. A person who wilfully, by loosening, removing or displacing a rail, or by any other interference, wrecks, destroys or so injures any car, tender, locomotive or railway train, or part thereof, while moving upon any railway in this state, whether operated by steam, electricity or other motive power, as to thereby cause the death of a human being, is guilty of murder in the first degree, and punishable accordingly. (*Added by chap. 548, Laws of 1897.*)

See section 635, Penal Code, *post*.

LIABILITY OF PERSONS IN CHARGE OF STEAM ENGINES.

§ 199. An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

USE OF FORCE OR VIOLENCE, DECLARED NOT UNLAWFUL, ETC.

§ 223. To use or attempt, or offer to use, force or violence upon or toward the person of another, is not unlawful in the following cases:

* * * * *

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

* * * * *

SUNDAY LABOR.

§ 263. All labor on Sunday is prohibited excepting the works of necessity or charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

MISMANAGEMENT OF STEAM BOILERS.

§ 362. An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

INNKEEPERS AND CARRIERS REFUSING TO RECEIVE GUESTS AND PASSENGERS.

§ 381. A person who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guests, or to receive and carry any passengers, is guilty of a misdemeanor.

PROTECTING CIVIL AND PUBLIC RIGHTS.

§ 383. A person who

1. Excludes a citizen of this state, by reason of race, color or previous condition of servitude, from the equal enjoyment of any accommodation, facility or privileges furnished by innkeepers or common carriers, or by owners, managers or lessees of theatres or other places of amusement, or by teachers and officers of common schools and public institutions* of learning, or by cemetery associations; or

2. Denies or aids or incites another to deny to any other person because of race, creed or color, full enjoyment of any of the accommodations, advantages, facilities and privileges of any hotel, inn, tavern, restaurant, public conveyance on land or water, theatre or other place of public resort or amusement, is guilty of a misdemeanor, punishable by fine of not less than fifty dollars nor more than five hundred dollars.

FAILURE TO FURNISH STATISTICS TO COMMISSIONER OF LABOR STATISTICS.

§ 384. Any person who refuses, when requested by the commissioner of labor statistics,

1. To admit him or a person authorized by him to a mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment; or,

2. To furnish him with information relative to his duties which may be in such person's possession or under his control; or,

* So in the original.

3. To answer questions put by such commissioner in a circular or otherwise, or shall knowingly answer such questions untruthfully, is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than fifty nor more than two hundred dollars. (*Added by chap. 416, Laws 1897.*)

HOURS OF LABOR TO BE REQUIRED.

§ 384h. Any person or corporation,

2. Who shall require more than ten hours' labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employes of a street surface and elevated railway owned or operated by corporations whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; or,

4. Who shall require the employes of a corporation operating a line of railroad of thirty miles in length or over, in whole or in part within this state, to work contrary to the requirements of article one of the labor law, is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense. If any contractor with the state or a municipal corporation shall require more than eight hours for a day's labor, upon conviction therefor in addition to such fine, the contract shall be forfeited at the option of the municipal corporation. (*Added by chap. 416, Laws 1897.*)

PAYMENT OF WAGES.

§ 384i. A corporation or joint stock association or a person carrying on the business thereof, by lease or otherwise, who does not pay the wages of its employes in cash, weekly or monthly as provided in article one of the labor law, is guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than twenty-five nor more than fifty dollars for each offense. (*Added by chap. 416, Laws 1897.*)

See Labor Law, chap. 415, Laws of 1897, *ante*.

KEEPING EXPLOSIVES UNLAWFULLY

§ 389. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or causes to be presented or offered for shipment, to any railroad, steamboat, steamship, express or other company engaged as common carrier

of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosives, or substance so offered or attempted to be offered to the company or carrier to which it shall be presented shall be guilty of a felony, and upon conviction shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars or imprisonment in a state prison for not less than one nor more than five years or be subject to both such fine and imprisonment.

UNLAWFUL ACTS OF AND NEGLECT OF DUTY BY RAILROAD OFFICIALS.

§ 416. An officer, agent, attorney or employe of a railroad corporation, who:

1. Offers a place, appointment, position or any other consideration to a railroad commissioner or to a secretary, clerk, agent, employe or expert employed by the board of railroad commissioners; or

2. After due notice, neglects or refuses to make or furnish any statement or report lawfully required by the board of railroad commissioners or willfully hinders, delays or obstructs such commissioners in the discharge of their official duties;

Is guilty of a misdemeanor.

See article VI, Railroad Law, *ante*.

MISCONDUCT OF RAILROAD COMMISSIONERS AND OF THEIR EMPLOYEES.

§ 417. Any railroad commissioner, or any secretary, clerk, agent, expert or other person employed by the board of railroad commissioners, who,

1. Directly or indirectly solicits or requests from or recommends to any railroad corporation, or to any officer, attorney or agent thereof, the appointment of any person to any place or position; or,

2. Accepts, receives or requests, either for himself or for any other person, any pass, gift or gratuity from any railroad corporation; or,

3. Secretly reveals to any railroad corporation, or to any officer, member or employe thereof, any information gained by him from any other railroad corporation; is guilty of a misdemeanor.

See article VI, Railroad Law, *ante*.

PERSON UNABLE TO READ NOT TO ACT OR BE EMPLOYED AS ENGINEER

§ 418. Any person unable to read the time tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive, is guilty of a misdemeanor; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor.

MISCONDUCT OF OFFICIALS OR EMPLOYEES ON ELEVATED RAILROADS.

§ 419. Any conductor, brakeman, or other agent or employe of an elevated railroad, who :

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employe of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed; is guilty of a misdemeanor.

INTOXICATION OR OTHER MISCONDUCT OF RAILROAD OR STEAMBOAT EMPLOYEES.

§ 420. 1. Any person who, being employed upon any railroad as engineer, conductor, baggagemaster, brakeman, switchtender, fireman, bridgetender, flagman, signalman, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switchtender, or other officer, agent or employe of any railroad corporation, who willfully violates or omits his duty as such officer, agent or employe, by which human life or safety is endangered, the punishment of which is not otherwise prescribed; is guilty of a misdemeanor.

See section 41, Liquor Tax Law, *ante*. Also, section 42, Railroad Law, *ante*.

FAILURE TO RING BELL, ETC.

§ 421. A person acting as engineer, driving a locomotive on any railway in this state, who fails to ring the bell, or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals, until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, or any officer or employe of a corporation who shall willfully obstruct, or cause to be obstructed, any farm or highway crossing with any locomotive or car for a longer period than five consecutive minutes, is guilty of a misdemeanor.

PLACING PASSENGER CAR IN FRONT OF MERCHANDISE OR FREIGHT CAR.

§ 422. A person, being an officer or employe of a railway company, who knowingly places, directs or suffers a freight, lumber, merchandise, or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor.

PLATFORMS AND HEATING APPARATUS OF PASSENGER CARS.

§ 423. A railroad corporation, or any officer or director thereof having charge of its railroad, or any person managing a railroad in this state, or any person or corporation running passenger cars upon a railroad into or through this state, who:

1. Fails to have the platforms or ends of the passenger cars run upon such railroad constructed in such manner as will prevent passengers falling between the cars while in motion; or,
2. Except temporarily, in case of accident or emergency, heats any passenger car, while in motion, on any such railroad more than fifty miles in length, except a narrow gauge railroad which runs only mixed trains, between October fifteenth and May first, by any stove or furnace inside of or suspended from such car, except stoves of a

pattern and kind approved by the board of railroad commissioners for cooking purposes in dining room cars, and except within the extended time allowed by the railroad commissioners in pursuance of law for introducing other heating apparatus; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws of 1892.*)

GUARD POSTS; AUTOMATIC COUPLERS.

§ 424. All corporations and persons other than employees, operating any steam railroad in this state,

1. Failing to ~~cause guard posts to be placed~~ in the prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or,

2. Failing after November first, eighteen hundred and ninety-two, to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the board of railroad commissioners, in pursuance of law, for equipping such car with such couplers; is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense. (*Thus amended by chap. 664, Laws of 1896.*)

See, also, chaps. 543 and 544, Laws of 1893, *ante*. Also, section 49, Railroad Law, *ante*.

ADVISING OR INDUCING EMPLOYEES NOT TO WEAR UNIFORM A MISDEMEANOR.

§ 425. A person who

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority;

Is guilty of a misdemeanor.

RIDING ON FREIGHT TRAINS; GETTING ON CAR OR TRAIN WHILE IN MOTION; OBSTRUCTING, ETC., HORSE OR STREET RAILROAD CARS; PUNISHMENT.

§ 426. Riding on freight trains.

1. A person who rides on any engine or any freight car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine; or,

2. Who gets on any car or train while in motion (for the purpose of obtaining transportation thereon as passenger) or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any steam or horse or street railway;

Is guilty of a misdemeanor.

See chapter 590, Laws of 1872, *ante*.

UNAUTHORIZED MANUFACTURE, SALE OR USE OF ILLUMINATING OILS.

§ 427a. A person who violates any provision of the domestic commerce law, relating to the standard, manufacture, sale, use or storage of any oil or burning fluid, wholly or partially composed of naphtha, coal oil, petroleum or products manufactured therefrom, or of other substance or materials which will flash at a temperature below one hundred degrees Fahrenheit, or relating to the burning or carriage of any such oil or fluid which will ignite at a temperature below three hundred degrees Fahrenheit, is guilty of a misdemeanor.

LIGHTS UPON SWING BRIDGES.

§ 433a. A corporation, company or individual, owning, maintaining or operating a swing bridge across the Hudson river, who during the navigation season between sundown and sunrise, neglects to keep and maintain upon every such bridge the lights required by law, is guilty of a misdemeanor.

See chap. 592, Laws of 1897, *ante*.

ARSON IN FIRST DEGREE DEFINED.

§ 486. A person who willfully burns or sets fire in the night-time, either

2. A car, vessel or other vehicle, or a structure or building other than a dwelling house, wherein, to the knowledge of the offender, there is at the time a human being;

Is guilty of arson in the first degree.

ARSON IN SECOND DEGREE.

§ 487. A person who,

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time;

Is guilty of arson in the second degree.

ARSON IN THIRD DEGREE.

§ 488. A person who wilfully burns, or sets on fire, either

1. A vessel, car, or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire with intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a building, structure or other erection under circumstances not amounting to arson in the first or second degree; Is guilty of arson in the third degree.

ARSON, HOW PUNISHED.

§ 489. Arson is punishable as follows:

1. In the first degree, by imprisonment for a term not exceeding forty years.

2. In the second degree, by imprisonment for a term not exceeding twenty-five years.

3. In the third degree, by imprisonment for a term not exceeding fifteen years.

§ 2. The penalties above prescribed shall, however, only apply to offenses committed after the taking effect of this act. Nothing herein contained shall in any manner affect or impair any liability or punishment incurred prior to the time this act takes effect, under or by virtue of the then existing provisions of the section hereby amended, and all offenses of arson committed before that time shall be punishable according to such previously existing provisions, as fully, and in the same manner, as though this act had not been passed. (*Thus amended by chap. 549, Laws 1897, taking effect Sept. 1st, 1897.*)

BURGLARY IN THIRD DEGREE.

§ 498. A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or room, or any part of a building; or,

2. Being in any building, commits a crime therein and breaks out of the same;

Is guilty of burglary in the third degree.

"BUILDING" DEFINED.

§ 504. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

UNLAWFULLY ENTERING BUILDING.

§ 505. A person who, under circumstances or in a manner not amounting to burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

OTHER CASES OF FORGERY IN THIRD DEGREE.

§ 514. A person who, either,

1. Being an officer or in the employment of a corporation, association, partnership or individuals falsifies, or unlawfully and corruptly alters, erases, obliterates or destroys any accounts, books of accounts, records, or other writing, belonging to or appertaining to the business of the corporation, association or partnership or individuals; * * *

FORGING PASSAGE TICKETS.

§ 516. A person who, with intent to defraud, forges, counterfeits or, falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon

any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

OFFICER OF CORPORATION SELLING, ETC., FORGED OR FRAUDULENT SCRIP, ETC.

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this state, or of any other state or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding \$3,000.

FALSELY INDICATING PERSON AS CORPORATE OFFICER

§ 519. The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery, in the same degree, as if that person were in truth such officer or agent of the corporation or association, state or government.

TERMS "FORGE" AND "FORGING."

§ 520. The expression "forge," "forged" and "forging," as used in this chapter, includes false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

COMPLETED UNISSUED INSTRUMENTS PROPERTY (LARCENY).

§ 536. All the provisions of this chapter apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, or a passage ticket, completed and

ready to be issued or delivered, although the same has never been issued or delivered by the maker thereof to any person as a purchaser or owner.

VALUE OF PASSENGER TICKET.

§ 546. If the thing stolen is a ticket, paper or other writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel or other public conveyance, the price at which a ticket entitling a person to a like passage is usually sold, is deemed the value thereof.

FRAUDS IN THE ORGANIZATION OF CORPORATIONS.

§ 590. A person who:

1. Without authority subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint-stock association existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association; or,
2. Signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation, existing or proposed; or,
3. Signs to any such subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement, that the terms of such subscription or agreement are not to be complied with or enforced; is guilty of a misdemeanor.

FRAUDULENT ISSUE OF STOCK, ETC.

§ 591. An officer, agent or other person in the service of any joint-stock company or corporation formed or existing under the laws of this state, or of the United States, or of any state or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either:

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed with intent to sell, pledges or issues, or causes to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation without being first thereto duly authorized by such company or cor-

poration, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares, is punishable by imprisonment for a term not exceeding seven years, or by a fine not exceeding three thousand dollars, or by both.

FRAUD IN PROCURING ORGANIZATION OF CORPORATION OR INCREASE OF STOCK.

§ 592. An officer, agent or clerk of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison not exceeding ten years.

MISCONDUCT OF DIRECTORS OF STOCK CORPORATIONS.

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended,

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders or any of them, any part of the capital stock of the corporation; or to reduce such capital stock without the consent of the legislature; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus profits, directly or indirectly, to the purchase of shares of its own stock; or,

6. To receive any such shares in payment or satisfaction of a debt due to such corporations; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock, notes, bonds or other evidences of debt issued by any other stock corporation engaged in another line of business, unless authorized by law to make such exchange; is guilty of a misdemeanor.

MISAPPROPRIATION OF PROPERTY, BY OFFICER OF A CORPORATION, ETC.

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a state prison not exceeding ten years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (*Thus amended by chap. 662, Laws of 1892.*)

See chapter 692, Laws of 1892, also, amending this section.

MISCONDUCT OF OFFICERS AND DIRECTORS OF STOCK CORPORATIONS.

§ 610. An officer or director of a stock corporation who:

1. Issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or,

2. Sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share, is guilty of a misdemeanor, punishable by imprisonment for not less than six months, or by a fine not exceeding five thousand dollars, or by both. (*Thus amended by chap. 692, Laws 1892.*)

MISCONDUCT OF OFFICERS AND EMPLOYEES OF CORPORATIONS.

§ 611. A director, officer, agent or employe of any corporation or joint-stock association who:

1. Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made, a full and true entry thereof in its books and accounts; or,

2. Concurs in omitting to make any material entry thereof; or,

3. Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false; or,

4. Having the custody or control of its books, willfully refuses or neglects to make any proper entry in the stock book of such corporation as required by law, or to exhibit or allow the same to be inspected, and extracts to be taken therefrom by any person entitled by law to inspect the same or to take extracts therefrom. (*Thus amended by chap. 692, Laws 1893.*)

5. If a notice of an application for an injunction affecting the property or business of such joint-stock association or corporation is served upon him, omits to disclose the fact of such service and the time and place of such application to the other directors, officers and managers thereof; or,

6. Refuses or neglects to make any report or statement lawfully required by a public officer; is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

MISCONDUCT OF CORPORATE ELECTIONS.

§ 613. Any person who:

1. Votes or issues a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bond, if the person in whose behalf such vote is given shall not then have the title to the stock represented by such certificate or to such bond, and shall not have it in his possession and control, notwithstanding such stock or bond shall then stand on the books of such corporation in the name of the person in whose behalf such vote is given; or,

2. Being entitled to vote at such meeting, sells his vote or issues a proxy to vote to any person for any sum of money or thing of value; or,

3. Acts as an inspector of election at any such meeting and violates an oath taken by him, in pursuance of law as such inspector,

or violates the provisions of an oath required by law to be taken by him as such inspector, or is guilty of any dishonest or corrupt conduct as such inspector, is guilty of a misdemeanor. (*Thus amended by chap. 692, Laws 1892.*)

**PRESUMPTION OF KNOWLEDGE OF CORPORATE CONDITION
AND BUSINESS AND OF ASSENT THERETO BY DIRECTORS;
DEFINITION.**

§ 614. It is no defense to a prosecution for a violation of the provisions of this chapter, that the corporation is a foreign corporation, if it carries on business or keeps an office therefor in this state. The term "director" as used in this chapter includes any of the persons having, by law, the direction or management of the affairs of a corporation, by whatever name described. A director of a corporation or joint-stock association is deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors is a violation of this chapter. If present at a meeting of the directors at which any act, proceeding or omission of such directors in violation of this chapter occurs, he must be deemed to have concurred therein, unless he at the time causes or in writing requires his dissent therefrom to be entered on the minutes of the directors. If absent from such meeting, he must be deemed to have concurred in any such violation, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the corporation for six months thereafter without causing or in writing requiring his dissent from such violation to be entered on such record of minutes. (*Thus amended by chap. 692, Laws 1892.*)

**SALE OF PASSAGE TICKETS ON VESSELS AND RAILROADS
FORBIDDEN EXCEPT BY AGENTS ESPECIALLY AUTHOR-
IZED.**

§ 615. No person shall issue or sell, or offer to sell, any passage ticket, or an instrument giving or purporting to give any right, either absolutely or upon any condition or contingency to a passage or conveyance upon any vessel or railway train, or a berth or state-room in any vessel, unless he is an authorized agent of the owners or consignees of such vessel, or of the company running such train, except as allowed by sections six hundred and sixteen and six hundred and twenty-two, and no person is deemed an authorized agent of such owners, consignees or company, within the meaning of the chapter, unless he has received authority in writing therefor, specifying the name of the company, line, vessel or railway for which he is authorized to act as agent, and the city, town or vil-

lage together with the street and street number, in which his office is kept, for the sale of tickets. (*Added by chap. 506, Laws 1897, taking effect Sept. 1st, 1897.*) *Unconstitutional*; 157 *N. Y.*

SALES BY AUTHORIZED AGENTS RESTRICTED.

§ 616. No person, except as allowed in section six hundred and twenty-two, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent, sell or offer to sell, any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provision of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. Nothing in this section or chapter contained shall prevent the properly authorized agent of any transportation company from purchasing from the properly authorized agent of any other transportation company a ticket for a passenger to whom he may sell a ticket to travel over any part of the line for which he is the properly authorized agent, so as to enable such passenger to travel to the place or junction from which his ticket shall read. Every person who shall have purchased a passage ticket from an authorized agent of a railroad company, which shall not have been used, or shall have been used only in part, may, within thirty days after the date of the sale of said ticket, present the same, unused or partly used, for redemption, at the general office of the railroad company which issued said ticket, or at the ticket office where said ticket was sold, or at the ticket office at the point to which the ticket has been used. If said ticket, wholly unused, shall be presented for redemption at the ticket office where sold, the same shall be then and there redeemed by the agent in charge of said ticket office at the price paid for said ticket. If said ticket, partly used, shall be presented for redemption at the ticket office where sold, or at the ticket office at the point to which used, the ticket agent at either of said offices, upon the delivery of said

ticket, shall issue to the holder thereof a receipt, properly describing said ticket and setting forth the date of the receipt of said ticket, and the name of the person from whom received, and shall thereupon forthwith transmit said ticket for redemption to the general office. It shall be the duty of every railroad company to redeem tickets presented for redemption, as in this section provided for, promptly and within not to exceed thirty days from the date of presentation at the general office or from the date of the aforesaid receipt. A wholly unused ticket shall be redeemed at the price paid therefor. A partly used ticket shall be redeemed at a rate which shall be equal to the difference between the price paid for the whole ticket and the cost of a ticket of the same class between the points for which said ticket was actually used. Mileage books shall be redeemed within thirty days after the date of the expiration thereof in the same manner. Every railroad company which shall wrongfully refuse redemption, as in this section provided for, shall forfeit to the aggrieved party fifty dollars, which sum may be recovered, together with the amount of redemption money to which the party is entitled, in an action in any court of competent jurisdiction, together with costs; but no such action can be maintained unless commenced within one year after the cause of action accrued. (*Thus amended by chap. 506, Laws 1897, taking effect Sept. 1st, 1897.*) *Unconstitutional; 157 N. Y.*

UNAUTHORIZED PERSONS FORBIDDEN TO SELL CERTIFICATES, RECEIPTS, ETC., FOR THE PURPOSE OF PROCURING TICKETS.

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose or under the pretence, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees at their office.

PENALTY.

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a state prison not exceeding two years, or imprisonment in a county jail not exceeding six months. (*Thus amended by chap. 662, Laws of 1892.*)

CONSPIRING TO SELL PASSAGE TICKETS IN VIOLATION OF LAW.

§ 619. All persons who conspire together to sell, or attempt to sell to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who by means of any such conspiracy, obtain or attempt to obtain, any money or other property, under the pretence of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a state prison not exceeding five years.

§ 619a. No transfer ticket or written or printed instrument giving, or purporting to give, the right of transfer to any person or persons from a public conveyance operated upon one line or route of a street surface railroad to a public conveyance upon another line or route of a street surface railroad, or from one car to another car upon the same line of street surface railroad, shall be issued, sold or given except to a passenger lawfully entitled thereto. Any person who shall issue, sell or give away such a transfer ticket or instrument as aforesaid to a person or persons not lawfully entitled thereto, and any person or persons not lawfully entitled thereto who shall receive and use or offer for passage any such transfer ticket or instrument, or shall sell or give away such transfer ticket or instrument to another with intent to have such transfer ticket used or offered for passage after the time limited for its use shall have expired, shall be guilty of a misdemeanor. (*Added by chap. 663, Laws of 1898.*)

CONSPIRATORS MAY BE INDICTED, NOTWITHSTANDING OBJECT OF CONSPIRACY HAS NOT BEEN ACCOMPLISHED.

§ 620. Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

OFFICES KEPT FOR UNLAWFUL SALE OF PASSAGE TICKETS, DECLARED DISORDERLY HOUSES.

§ 621. All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter are punishable by imprisonment in a county jail for a period not exceeding six months. (*Thus amended by chap. 662, Laws of 1892.*)

OWNERS, PURSERS, ETC., ALLOWED TO SELL TICKETS.

§ 622. The provisions of this chapter do not prevent the actual owners or consignees of any vessel from selling passage tickets thereon; nor do they prevent the purser or clerk of any vessel from selling in his office on board of such vessel, any passage tickets upon such vessel.

STATION MASTERS, CONDUCTORS, ETC., ALLOWED TO SELL TICKETS.

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

EMIGRANTS SALES AND EXCHANGES OF PASSENGER TICKETS.

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile; or,
2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,
3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,
4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,
5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship;

Is guilty of a misdemeanor.

"COMPANY" DEFINED.

§ 627. The term "company," as used in this chapter, includes all corporations, whether created under the laws of this state or of the United States, or those of any other state or nation.

ISSUING FICTITIOUS BILLS OF LADING, RECEIPTS AND VOUCHERS.

§ 629. A person who,

1. Being the master, owner, or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher; or,

2. Carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness; is guilty of a misdemeanor, punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. (*Thus amended by chap. 692, Laws of 1892.*)

ERRONEOUS BILLS OF LADING ON RECEIPTS ISSUED IN GOOD FAITH EXCEPTED.

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading receipt or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

DUPLICATE RECEIPT MUST BE MARKED "DUPLICATE."

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

SELLING, HYPOTHECATING OR PLEDGING PROPERTY RECEIVED FOR TRANSPORTATION OR STORAGE.

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$1,000, or by both.

PROPERTY DEMANDED BY PROCESS OF LAW.

§ 634. The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process

INJURIES TO RAILROAD TRACKS, ET CETERA.

§ 635. A person who wilfully:

1. Displaces, loosens, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment or structure or any part thereof, attached, appertaining to or connected with any railway, or by any other means attempts to wreck, destroy, or so damage any car, tender, locomotive or railway train or part thereof, while moving or standing upon any railway track in this state, as to render such car, tender, locomotive or railway train wholly or partially unfitted for its ordinary use, whether operated by steam, electricity or other motive power; or
2. Places any obstruction upon the track of any such railway; or
3. Wilfully destroys or breaks any guard erected or maintained by a railroad corporation as a warning signal for the protection of its employes; or
4. Wilfully discharges a loaded firearm or projects, or throws a stone or other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or
5. Wilfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or any part thereof, attached,

appertaining to or connected with any railway operated by electricity, or wilfully interferes with or interrupts any motive power used in running such road, or wilfully places any obstruction upon the track of such railroad, or wilfully discharges a loaded firearm, or projects or throws a stone or any other missile at such railway train or locomotive, car or vehicle, standing or moving upon such railway; or

6. Removes a journal brass from a car while standing upon any railroad track in this state, without authority from some person who has a right to give such authority, is punishable as follows: First. If thereby the safety of any person is endangered, by imprisonment for not more than twenty years. Second. In every other case by imprisonment for not more than five years. (*Thus amended by chap. 183, Laws of 1897, taking effect Sept. 1st, 1897.*)

See section 183a, Penal Code, *ante*.

ALTERING, ETC., SIGNAL OR LIGHT FOR RAILWAY ENGINE OR TRAIN.

§ 638. A person who, with intent to bring a vessel, railway engine or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters or removes a light or other signal; or

2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

ENDANGERING LIFE BY MALICIOUSLY PLACING EXPLOSIVE NEAR BUILDING, CAR, ETC.

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

§ 654. A person who unlawfully and willfully destroys or injures any real or personal property of another or who without authority or permission from a person who has the right to give such authority or permission, loosens any brake or blocking of any car standing on any railroad track in this state, or without like authority or permission, puts upon or runs any hand car, or other car, on any railroad track in this state, or without like authority or permission, interferes or meddles with any brake or coupling of any car while standing or moving on any railroad track in this state or

takes any part therein, in a case where the punishment is not specially prescribed by statute, is punishable as follows:

1. If the value of the property destroyed, or the diminution in the value of the property by the injury is more than twenty-five dollars, by imprisonment for not more than four years.

2. In any other case, by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment described therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof. (*Thus amended by chap. 186, Laws of 1892.*)

CARRYING ANIMALS IN A CRUEL MANNER, A MISDEMEANOR.

§ 659. A person who carries, or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

THROWING SUBSTANCE INJURIOUS TO ANIMALS IN PUBLIC PLACES, A MISDEMEANOR.

§ 661. A person who willfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal, is guilty of a misdemeanor.

TRANSPORTING ANIMALS FOR MORE THAN TWENTY-FOUR CONSECUTIVE HOURS, A MISDEMEANOR.

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or

rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereon for such expense.

DEFINITIONS.

§ 669. 1. The word "animal," as used in this title, does not include the human race, but includes every other living creature,

2. The words "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; * * * * *

ENDANGERING LIFE BY REFUSAL TO LABOR.

§ 673. A person who willfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

OFFENSES NOT OTHERWISE ENUMERATED.

§ 675. Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person or persons in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor. A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

Rapid Transit Act.

CHAP. 4, LAWS OF 1891, AS AMENDED BY CHAP. 556, LAWS OF 1892, CHAP. 752, LAWS OF 1894, CHAP. 519, LAWS OF 1895, AND CHAP. 729, LAWS OF 1896.

AN ACT to provide for rapid transit railways in cities of over one million inhabitants.

COMMISSIONERS OF RAPID TRANSIT; APPOINTMENTS; BOARD CONSTITUTED; VACANCIES.

SECTION 1. In each city having over one million of inhabitants, according to the last preceding national or state census, there shall be a board of rapid transit railroad commissioners in and for such city, which shall consist of the mayor of such city, the comptroller or other chief financial officer of such city, the president of the chamber of commerce of the state of New York, by virtue of his office, and the following named persons, to wit: William Steinway, Seth Low, John Claflin, Alexander E. Orr and John H. Starin. The members of said board shall be styled commissioners, of rapid transit. Vacancies which may take place in the offices so held by the persons specifically named herein as such commissioners shall be filled by a majority vote of the remaining members of said board. The board thus constituted shall have and exercise the specific authority and powers hereinafter conferred and also such other and necessary powers as may be requisite to the efficient performance of the duties imposed upon said board by this act. (*Thus amended by chap. 752, Laws 1894.*)

OATH OF COMMISSIONERS.

§ 2. Each of the said commissioners other than the mayor and comptroller or other chief financial officer of such city shall take and subscribe an oath faithfully to perform the duties of his office, which oath shall be filed in the office of the clerk of any county within which there shall be a city of the class mentioned in the first section of this act. (*Thus amended by chap. 752, Laws 1894.*)

FIRST MEETING OF BOARD; BY-LAWS AND RULES; QUORUM; RECORD OF PROCEEDINGS.

§ 3. Within twenty days after the filing of the oaths of said commissioners so required to make and file the same the commissioners of rapid transit in respect to each of such cities shall meet and organize as a board. The board when so organized, may frame and adopt by-laws not inconsistent with this act, and establish suitable rules and regulations for the proper exercise of the powers and duties hereby conferred and imposed; and may, from time to time, amend the same. Four members of the board shall constitute a quorum for the transaction of business, but a less number may adjourn meetings. The said board shall adopt a seal, and keep a record of its proceedings, which shall be a public record and be open to inspection at all reasonable times. (*Thus amended by chap. 752, Laws 1894.*)

BOARD TO DETERMINE NECESSITY OF RAILWAYS AND TO FIX ROUTES; GENERAL PLAN OF CONSTRUCTION, ETC.

§ 4. The said board upon its own motion may proceed, from time to time, to consider and determine whether it is for the interest of the public and of the city in which it is appointed, that a rapid transit railway or railways for the conveyance and transportation of persons and property should be established therein, and upon the request in writing of the local authorities of any such city at any time, the said board shall proceed forthwith to consider and determine the same questions, and in each case the said board shall conduct such an inquest and investigation as may be deemed necessary in the premises. If, after such consideration and inquest, the said board shall determine that a rapid transit railway or railways, in addition to any already existing, are necessary for the interest of the public, and such city, it shall proceed to determine and establish the route or routes thereof and the general plan of construction. Such general plan shall show the general mode of operation and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue or other public place is to be encroached upon and the property abutting thereon affected, and the concurrent votes of at least six members of the board shall be necessary for the purpose of determining and establishing such route or routes and plan of construction. The said board, from time to time, may locate the route or routes of such railway or railways over, under, upon, through and across any streets, avenues and lands within such city, including blocks between streets

or avenues or, partly over, under, upon, through and across any streets, avenues and lands within such city and partly through blocks between streets or avenues; provided that the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners can not be obtained, that the determination of three commissioners appointed by the general term of the supreme court in the district of the proposed construction, given after due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners; except that no public park nor any lands or places, lawfully set apart for, or occupied by, any public building of any city or county, or of the state of New York, or of the United States, nor those portions of Grand, Classon, Franklin avenues and Downing street in the city of Brooklyn, lying between the southerly line of Lexington avenue and northerly line of Atlantic avenue, nor that portion of Classon avenue in said city lying between the northerly line of Lexington avenue and southerly line of Park avenue, nor that portion of Washington avenue in said city lying between Park and Atlantic avenues, nor DeBevoise place, Irving place and Lefferts place, Lee avenue, Nostrand avenue, Waverly avenue, Vanderbilt avenue and Clinton avenue in said city of Brooklyn, nor that portion of the city of Buffalo lying between Michigan and Main streets, nor any part of Fifth avenue in the city of New York, nor that portion of any street or avenue which is now actually occupied by any elevated railroad structure, shall be occupied by any corporation to be organized under the provisions of this act for the purpose of constructing a railway in or upon any of such public parks, lands or places, or upon or along either of the said excepted streets or avenues. It shall be lawful for said commissioners to locate the route of a railway or railways, by tunnel under any such public parks, lands or places, and to locate the route of any railway to be built, under this act, across any of the streets and avenues now occupied by an elevated railroad structure in the city of New York, or across any of the streets or avenues excepted in this act at any point at which, in its discretion, the board of rapid transit railroad commissioners may deem necessary in the location of any route or routes, or under, or under and along, any of said streets or avenues now so occupied or so excepted in this act. Nothing in this act shall authorize the con-

struction of an elevated railway on Broadway south of Thirty-third street, nor on Madison avenue in the city of New York. It shall not be lawful to grant, use or occupy, for the purposes of an elevated railroad, except for the purpose of crossing the same, any portion of the following named streets and places in the city of New York, that is to say : Second avenue below Twenty-third street ; Fourteenth street, between the easterly line or side of Seventh avenue, and the westerly side of Fourth avenue; nor Eleventh street, west of Seventh avenue, nor any part of Bank street; Nassau street; Printing House square, so called, south of Franklin street; Park row, south of Tryon row; Broad street and Wall street. (*Thus amended by chap. 519, Laws of 1895.*)

TRANSMISSION OF PLANS, ETC.; APPROVAL AND CONSENT OF COUNCIL; CONSENT OF LEGAL AUTHORITIES, ETC.

§ 5. After any determination by said board of any such route or routes and of any general plan of construction of said railway or railways, the said board shall transmit to the common council of said city a copy of said plans and conclusions as adopted. It shall be the duty of such common council upon receiving such copy of plans and conclusions to appoint a day not less than one week nor more than ten days after the receipt thereof for the consideration of such plans and conclusions, and the said common council shall, on the day so fixed, proceed with the consideration thereof and may continue and adjourn such consideration, from time to time, until a final vote shall be taken thereon, as hereinafter provided. Within four weeks after the copy of such plans and conclusions adopted by the board of rapid transit railroad commissioners shall have first been received by said common council, a final vote shall be taken thereon, by ayes and nays, in the form of a vote upon a resolution to approve such plans and conclusions, and to consent to the construction of a railway or railways in accordance therewith. Upon the adoption of such a resolution by a majority vote of all the members of the common council and the approval of the mayor, and in the case of the refusal or failure of the mayor to approve such resolution, then by a two-thirds vote of all the members of the common council, the said plans and conclusions shall be deemed to have been finally consented to and adopted, and such consent shall be deemed to be the consent of the local authorities of such city; provided, that where in any such city the exclusive control of any street, road, highway or avenue which is to be used or occupied by any railway or railways constructed under the provisions of this act, is by law vested

in any local authority other than the common council of such city, the approval of the aforesaid plans and conclusions and the consent to the construction of a railway thereunder shall be given by such local authority in place of and if required in addition to such approval and consent by said common council and with like effect. Upon obtaining the approval and consent of the local authorities as above provided, the said board of rapid transit railroad commissioners shall also, unless such approval and consent of local authorities shall have been refused, take the necessary steps to obtain, if possible, the said consents of the property owners along the line of the said route or routes. For the purposes of this act the value of the property bounded on that portion of any street or highway in, upon, over or under which it is proposed to construct or operate such railway or railways, or any part thereof, shall be ascertained and determined from the assessment-roll of the city in which the said property is situated, confirmed or completed last before the local authorities shall have given their consent as above provided. If such consents of property owners can not be obtained, the said board may, in its own name, make application to the general term of the supreme court in the judicial district in which such railway is to be constructed for the appointment of three commissioners to determine and report after due hearing whether such railway ought to be constructed and operated. Two weeks' notice of such application shall be given by daily publication thereof, Sundays and holidays excepted, in six daily newspapers published in the city where such proposed railway is to be constructed, if there be so many newspapers published in said city, and if not, then in all the daily newspapers published in said city. The newspapers in which said publication shall be made shall be designated by the general term of the supreme court to which such application is to be made on the application of the commissioners without notice. The said general term, upon due proof of the publication aforesaid, shall appoint three disinterested persons who shall act as commissioners, and such commissioners within ten days after their appointment shall cause public notice to be given in the manner directed by the said general term of their first sitting, and may adjourn from time to time until all their business is completed. Vacancies in such commission may be filled by said general term after such notice to persons interested as the general term may deem proper, and the evidence taken before as well as after such vacancy occurred shall be deemed to be properly before such commissioners. The said commissioners shall determine after public hearing of all parties interested whether such railroad ought to be

constructed and operated and shall report the evidence taken to said general term, together with a report of their determination whether such road ought to be constructed and operated, which report, if in favor of the construction and operation of such road, shall, when confirmed by said court, be taken in lieu of the consent of the property owners above mentioned. Such report shall be made within sixty days after the appointment of said commissioners, unless the said court, or a judge thereof, shall extend such time. (*Thus amended by chap. 519, Laws 1895.*)

**DETAILED PLAN; SUBWAYS FOR PIPES AND WIRES; WORK
AT POINTS OF SUB-SURFACE STRUCTURES; EXPENSES,
HOW PAID.**

§ 6. When the consents of the local authorities and the property owners, or, in lieu thereof, the authorization of the said general term of the supreme court upon the report of commissioners, shall have been obtained, the board of rapid transit railroad commissioners shall at once proceed to prepare detailed plans and specifications for the construction of such rapid transit railway or railways in accordance with the general plan of construction, including all devices and appurtenances deemed by it necessary to secure the greatest efficiency, public convenience and safety, including the number, location and description of stations and plans and specifications for suitable supports, turnouts, switches, sidings, connections, landing-places, buildings, platforms, stairways, elevators, telegraph and signal devices, and other suitable appliances incidental and requisite to what the said board may approve as the best and most efficient system of rapid transit in view of the public needs and requirements, and the said board may in its discretion include in said plans, provisions for subways or tunnels for sewer, gas or water pipes, electric wires and other conductors proper to be placed under ground, whenever necessary so to do, in order to permit of the proper construction of any railway herein provided for in accordance with the plans and specifications of the said board. Stations and station approaches may be under or over streets of the route or cross-streets. The board may, from time to time, alter such detailed plans and specifications, but always so that the same shall accord with the general plan of construction; but whenever a contract shall have been made for the construction of any railway herein provided for, no such alteration shall be made by the board without the consent of the contractor and his sureties, except as liberty shall have been reserved in such contract by said

board for such alteration. Whenever the construction of any railway, depressed way, subway or tunnel under the provisions of this act shall interfere with, disturb or endanger any sewer, water pipe, gas pipe, or other duly authorized sub-surface structure, the work of construction at such points shall be conducted in the city of New York in accordance with the reasonable requirements of the commissioner of public works, and in other cities in accordance with the reasonable requirements and under the supervision of the officer or local authority having the care of, and the jurisdiction or control over, such sub-surface structures so interfered with, disturbed or endangered. All expenses incidental to such supervision and to the work of reconstructing, readjusting and supporting any such sewer, water pipe, gas pipe, or other duly authorized sub-surface structure, shall be borne and paid by the company which shall have acquired the right, privilege and franchise to construct, maintain and operate such railway, pursuant to a sale of the same at public auction, as hereinafter provided, if any such sale shall be made by said board. Where, under the direction of the said board or in pursuance of any general plan adopted or of any contract made by the said board, galleries, ways or subways shall be constructed to contain sewers, pipes or other sub-surface structures, the said galleries, ways or subways shall be maintained by the said city and shall be in the care and charge of the said board and subject to such regulations as it shall prescribe not inconsistent with the provisions of this act, and any revenue derived therefrom shall be paid into the treasury of said city, except that where bonds shall have been issued to provide for the cost of construction of such railroads, such amounts shall be paid to the sinking fund of the city, if there be one, or if not then into the sinking fund, to be established and created out of the annual rentals of the said road, as provided in section thirty-seven of this act. Provided, however, that any person or corporation who or which, at the time of the construction of the said galleries, ways or subways, shall own pipes, subways or conduits in a street, avenue or public place in which said galleries, ways or subways shall be constructed pursuant to this act, shall be entitled to the use of such galleries, ways or subways for his or its said pipes, subways or conduits in the same manner as the said person or corporation shall be entitled by law to the use of such street, avenue or public place, and that no rent shall be charged for such use, except a reasonable charge to defray the actual cost of maintenance, unless such pipes, subways, or conduits shall be of a greater capacity than those theretofore owned by such person or corporation in said street, avenue or public place, and that, if the capacity of any such pipe, subway or conduit so placed in the said galleries, ways or subways shall be increased, the rent shall be charged only for such increased capacity; and provided, further, that the placing in any such galleries, ways or subways of the subways or conduits of any corporation owning subways or conduits for electrical conductors, shall not in any wise affect the right of such corporation to charge and demand such compensation or rent for the use of said subways or conduits by other corporations or individuals as is, or may be, permitted by law. (*Thus amended by chap. 729, Laws of 1896.*)

PUBLIC SALE OF FRANCHISE; NOTICE THEREOF; TERMS AND CONDITIONS; SUPERVISION ON BOARD AND ENGINEERS; DEPOSITS BY BIDDERS; NULLITY OF BIDS AND RIGHTS THEREUNDER; TIME FOR BEGINNING AND FINISHING ROADS; FORFEITURE AND REBALE OF FRANCHISE; TERMS AS TO ORGANIZATION OF CORPORATION, ETC.; REJECTION AND ACCEPTANCE OF BIDS; TERMS ON RE-SALES; ADJOURNMENTS; TERM OF FRANCHISE; PROVISION AS TO EXTENSION.

§ 7. If, after having secured the necessary consents and after having prepared such detailed plans and specifications as are by this act provided for, it shall not have been determined by vote of the people as provided by sections twelve and thirteen of chapter seven hundred and fifty-two of the laws of eighteen hundred and ninety-four, that such railway or railways shall be constructed for and at the expense of such city as hereafter provided, said board shall sell at public auction in the city where said railway or railways are to be built and for the account and benefit of said city the right, privilege and franchise to construct, maintain and operate such railway or railways. Notice of the time and place of such sale shall be published three times a week for at least six successive weeks in at least three daily newspapers published in said city. The board may prescribe all such terms and conditions of sale as it may deem to be for the interest of the public and of the city in which the railway or railways are to be constructed. The advertisement of sale shall contain only so much of the said terms, plans and specifications for the construction as the said board may think proper, but such advertisement must state at what place the full terms, plans and specifications may be examined, and they shall be subject to examination under such reasonable rules and regulations as the board may prescribe. The terms of sale shall provide for the construction of the railway or railways under the supervision of the board, and for the approval of an engineer or engineers to be appointed, from time to time, by the board, and the corporation or corporations to be organized for the purpose of constructing and operating such railway or railways as in this act provided shall pay such engineer or engineers such salary as may, from time to time, be fixed by the said board of rapid transit railroad commissioners. Such engineer or engineers shall hold their office at the pleasure of the said board. The terms of sale shall require the successful bidder to deposit with the comptroller or chief fiscal officer of the city, in cash or approved securities, such amount as the board may deem sufficient to constitute a guarantee of full compliance with the terms of sale by the purchaser and by the corporation to be formed for the purpose of building and operating said railway as hereinafter provided. Said bids and all rights which may have been acquired thereunder shall become null and void and of no effect, at the option of said board, should there be a failure to organize a corporation to exercise such rights, privileges and franchises as required by said terms of sale and this act, or for any violation of any of the requirements of said terms of sale which should be complied with before such corporation is organized, and thereupon any deposit which may have been made pursuant to such terms of sale shall be paid into the treasury of such city upon a certificate being made and filed by said board with the public

officer with whom such deposit shall have been made, that said bid, and all rights which may have been acquired thereunder, have become null and void and of no effect; and said rights, privileges and franchises shall be again sold by said board, subject to all the provisions of this act regulating such sales. The terms of sale shall require the construction of the road to be begun within a time to be specified in said terms of sale, and to be finished within a certain time thereafter, to be specified therein, and may prescribe the time within which portions of the same shall be begun and finished. The said terms of sale may reserve to the board the power to extend the times for the commencement and completion of the construction of said railway, or of portions of the same, if, in its discretion, the said board deem such extension to be for the best interests of the city. In case the corporation formed for the purpose of constructing said railway shall fail to begin or finish the construction within the times for those purposes respectively limited, all rights, privileges and franchises of such corporation to maintain and operate said railway shall be forfeited, and upon such forfeiture being adjudged by the court in a suit brought for that purpose in the name of the mayor, aldermen and commonalty of the city of New York, or such other appropriate corporate title of said city or by said board of rapid transit railroad commissioners, then the said board shall have power to advertise and resell said rights, privileges and franchises and so much of the road as shall have been constructed by such corporation; such suit shall have preference over all other cases in all courts; and the proceeds of such resale shall be applied first to the payment of the expenses of the resale, and then to the discharge of any liens which may have been created upon such property, and the balance shall be paid over to the said corporation. The terms of sale must provide for the organization by the purchaser or purchasers of such rights, privileges and franchises of a corporation to exercise the same, and to construct, maintain and operate such rapid transit railway or railways, with the powers and subject to the duties and liabilities granted or imposed by this act. The said terms of sale must also specify the amount of the capital of any such corporation, and number of shares of capital stock which such corporation shall be authorized to issue, the percentage to be paid in cash by the subscribers on subscribing for such shares, the maximum amount of the bonded indebtedness which such corporation be authorized to incur, and which may be secured by mortgage upon its property and franchises, and the rates of fares and freights which such corporation may charge and collect for the carriage of persons and property. But the rate of fare for any passenger on said railway from any point on the same northward or southward within the city of New York shall not exceed five cents under any provision of this act. The said board may, if it considers that the public interests require it to do so, reject all bids and readvertise the said rights, privileges and franchises for sale, with the same or different terms of sale, as often as it may deem necessary in the interests of such city, and shall finally accept that bid, which under all circumstances, in its opinion, is most advantageous to the public and such city; and no bid shall be accepted without the concurrent vote of six members of the board. The terms of sale on any such resale must contain all the provisions required by this act to be

inserted in the original terms of sale. Such sale may be adjourned from time to time at the discretion of the board. All sales of such rights, privileges and franchises shall be made for a definite term of years, but the expiration of the term, if sold for a term of years, shall not impair any mortgage or other lien upon the property of such corporation or the rights of any creditor or creditors of such corporation; provided, however, that nothing herein contained shall be so construed as to extend the term for which such rights, privileges and franchises are sold. (*Thus amended by chap. 752, Laws 1894, and chap. 519, Laws 1895.*)

RESALE OF FRANCHISE AFTER EXPIRATION OF TERM; PURCHASERS; NEW CORPORATION.

§ 8. Within one year, and not less than six months prior to the expiration of any term for which such rights, privileges and franchises shall have been sold, said board shall proceed to resell the right to maintain and operate the said railway. Such sale shall be made in the manner prescribed for the original sale, and the board is empowered to make suitable provisions for securing to the corporation then operating such railway or railways suitable compensation for the railroad structure and appurtenances, and for any other property, real or personal which the said corporation may own or of which it may be vested at the expiration of the term for which such rights, privileges and franchises were sold. Any corporation theretofore organized under the provisions of this act may be a purchaser on such resale; but if no such corporation be the purchaser, a new corporation shall be formed to maintain and operate said road in the manner prescribed for the organization of a corporation on the original sale, except that the plans and specifications according to which said railway has been constructed need not be set out at large, but may be referred to as forming part of the articles of association of said new corporation.

OFFICES AND ASSISTANTS FOR BOARD, ETC.

§ 9. The said board may rent such offices and employ such engineers, attorneys and other persons, from time to time, as it may, in its discretion, deem necessary to the proper performance by it of its duties as in this act prescribed. It may sue in the name and behalf of the city for which it acts as a board. It may in the name of and in behalf of the said city bring action of specific performance or may apply by mandamus to compel the performance within its city by any corporation or person of any duty or obligation with reference to or aris-

ing out of the construction or operation of any railroad under, or by reason of, any grant made or right acquired under this act or the acts amendatory hereof or supplementary hereto, or out of or by reason of any contract made or authorized by any board of rapid transit commissioners within its city, or it may in behalf of and in the name of said city bring actions to recover damages for any violation of contract or duty, or for any wrong committed by any such corporation or person by reason of any non-performance or violation of duty under the provisions of this act, or under any contract or stipulation made in pursuance of any provisions of this act. Every action or proceeding brought by the said board, and every action or proceeding in which an injunction is had or sought against the board or the said city, or against any corporation or person who or which shall have entered into a contract under the provisions of this act, or any act supplementary hereto, or amendatory hereof, by reason of any act or thing done, proposed or threatened under or by virtue of any provision of this act, or any act supplementary hereto, or amendatory hereof, or is sought against any corporation or person claiming or claiming to act under any grant or franchise under this act, or any act supplementary hereto, or amendatory hereof, and every action or proceeding in which the constitutionality of any part of this act, or of any act supplementary hereto, or amendatory hereof, shall or may be brought in question, shall have a preference above all causes not criminal on the calendar of every court, and may be brought on for trial or argument upon notice of eight days for any day of any term on which the court shall be in session. (*Thus amended by chap. 519, Laws 1895.*)

APPROPRIATIONS FOR BOARD; PROCEEDINGS UPON FAILURE TO APPROPRIATE AMOUNT; LIABILITY OF CITY; AUDIT AND PAYMENT OF EXPENDITURES; REVENUE BONDS, ISSUE OF, ETC.; REPAYMENT OF EXPENSES; COMPENSATION OF COMMISSIONERS; STATED IN TERMS OF SALE.

§ 10. The board of estimate and apportionment or other board or public body on which is imposed the duty, and in which is vested the power, of making appropriations of public moneys for the purposes of the city government in any city in which it is proposed to construct such railway or railways shall, from time to time, on requisition duly made by the board of rapid transit railroad commissioners, appropriate such sum or sums of money as may be requisite and necessary to properly enable it to do and perform, or cause to be done and performed, the duties herein prescribed, and to provide for the compensation of such commissioners, and such appropriation shall be made

forthwith upon presentation of a requisition from the board of rapid transit railroad commissioners, which shall state the purposes for which such moneys are required by the said board. In case the said board of estimate and apportionment or such other board or public body fail to appropriate such amount as the board of rapid transit railroad commissioners deem requisite and necessary, the said board of rapid transit railroad commissioners may apply to the general term of the supreme court in the department in which the railway is to be or has been constructed, on notice to the board of estimate and apportionment, or such other board or public body aforesaid, to determine what amount shall be appropriated for the purposes required by this section, and the decision of said general term shall be final and conclusive; and no city shall be liable for any indebtedness incurred by the said board of rapid transit railroad commissioners in excess of such appropriation or appropriations. It shall be the duty of the auditor and comptroller of any such city, after such appropriations shall have been duly made, to audit and pay the proper expenditures and compensation of said commissioners upon vouchers therefor, to be furnished by the said commissioners, which payments shall be made in like manner as payments are now made by the auditor, comptroller, or other public officers, of claims against and demands upon such city; and for the purpose of providing funds with which to pay the said sums, the comptroller or other chief financial officer of said city is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of receipt of taxes, and out of the proceeds of such bonds to make the payments in this section required to be made. The amount necessary to pay the principal and interest of such bonds shall be included in the estimates of moneys necessary to be raised by taxation to carry on the business of said city, and shall be made a part of the tax levy for the year next following the year in which such appropriations are made. All expenses of the said board of rapid transit railroad commissioners, including the compensation of said commissioners, so incurred and paid by any city as in this section provided, and for which any city shall be liable, shall be repaid, with interest, by the bidder or bidders at the public sale of the rights, privileges and franchises, as in this act provided, in case said board shall so sell the same, whose bid shall be accepted by the board of rapid transit railroad commissioners, and the terms of such sale shall specify the time when such payment shall be made, as well as the amount thereof. The commissioners, other than the mayor and comptroller or other chief financial officer

of such city, shall be paid a reasonable compensation for the duties performed by them from time to time, under the provisions of this act. The amount of such compensation shall be determined by the general term of the supreme court in the department in which said city shall be located upon application by said board after notice to the mayor of such city. (*Thus amended by chap. 752, Laws 1894.*)

CORPORATIONS, HOW ORGANIZED; ARTICLES OF ASSOCIATION; APPROVAL AND FILING THEREOF; SUBSCRIPTIONS TO STOCK; MEETING OF SUBSCRIBERS; PREFERENCE IN SUBSCRIPTIONS, ETC.

§ 11. A corporation or corporations to construct and operate such rapid transit railway or railways, and to enjoy and exercise the rights, privileges and franchises in this act provided for shall be created and organized in the manner following: Articles of association shall be duly signed and acknowledged by not less than twenty-five persons, and such articles shall set forth the name of the proposed corporation and duration thereof. Said articles must also state that they are made and filed under and in pursuance of this act for the purpose of taking and exercising the rights, privileges and franchises so purchased as aforesaid, according to the terms of sale; and such terms of sale and all plans and specifications must be made a part of said articles, annexed thereto and filed therewith. The said articles must also contain such other provisions as the said board may deem requisite and necessary, not inconsistent with the terms of sale or with this act. The said articles must be approved by said board, by the concurrent vote of four members, and its approval must be indorsed thereon and attested by the seal of the board and the signature of its presiding officer, and must then be filed in the office of the secretary of state, and a duly certified copy, or a duplicate thereof, must be filed in the office of the clerk of the county in which such railway or railways are to be constructed. Immediately after the articles of association shall have been so made, approved and filed, the board of rapid transit railroad commissioners shall cause books of subscription to the capital stock of any such corporation to be opened, and shall give public notice of the opening of such books and of the time and place at which subscriptions will be received; and when the full amount of such capital stock shall have been subscribed by not less than fifty persons, and such percentage of the amount subscribed as may have been fixed by the board in the terms of sale shall have been paid in, in cash, to such bank or trust company as the board may select, the said board shall call a meeting

of the subscribers for the purpose of organizing the corporation, serving upon or mailing to each subscriber a notice of such meeting at least ten days before the time appointed for holding the same; and the person or persons whose bid shall have been accepted by the said board of rapid transit railroad commissioners shall, if they elect to become subscribers to the capital stock of such corporation, be entitled to a preference for themselves and their associates in subscribing for, and in the allotment of the shares of capital stock of such corporation.

ELECTION OF FIRST DIRECTORS; BY-LAWS TO BE ADOPTED.

§ 12. At such meeting of subscribers thirteen directors of the corporation shall be elected, each of whom shall be a holder in his own right of at least one hundred shares of the capital stock of the corporation, and the board of rapid transit railroad commissioners shall appoint the the* inspectors of the first election. Each share of stock shall entitle the holder to one vote for each director. The directors so selected shall hold office for one year and until others are elected in their places. At such meeting by-laws must be adopted not inconsistent with this act, which by-laws shall, among other things, provide for:

1. The term of office of the directors elected at any subsequent meeting of stockholders, which term shall not exceed one year.
2. The manner of filling any vacancy which may occur in any office or in the board of directors.
3. The time and place of the annual meeting of stockholders.
4. The manner of calling and holding special meetings of stockholders.
5. The number of stockholders who shall attend either in person or by proxy, at any stockholders' meeting in order to constitute a quorum.
6. The officers of a corporation, the manner of their election by the directors, and their duties and powers, and among which officers there shall be included a president, a secretary and a treasurer.
7. The manner of electing or appointing inspectors of election.
8. The manner of amending the by-laws.

The by-laws may also provide for the forfeiture of shares for the non-payment of calls and for such other matters as may be deemed proper by the board of rapid transit railroad commissioners and they must be approved by a resolution of said board.

* So in the original.

**RECORD OF PROCEEDINGS ; CERTIFICATE OF ORGANIZATION ;
RECORD AND CERTIFICATE TO BE FILED ; PAYMENT OF
DEPOSIT TO CORPORATION ; REPAYMENT TO PURCHASER
OF FRANCHISE**

§ 13. Within ten days after the said subscribers' meeting a record of the proceedings thereof, containing a copy of the subscription list, a copy of the by-laws adopted, and the names of the directors chosen, shall be prepared and duly certified by the person presiding over, and person acting as secretary of said meeting. There shall be attached thereto a certificate of the board of rapid transit railroad commissioners, attested by its seal and the signature of its presiding officer, that said board has approved the by-laws adopted at the subscribers' meeting, and that said corporation has been organized in accordance with the provisions of this act. The said record and certificate shall be filed by said board in the office of the secretary of state, and a duly certified copy or duplicate thereof shall be filed in the office of the clerk of the county in which said railway or railways are to be built, and thereupon and upon the payment to the state treasurer of a tax of one-eighth of one per centum of the par value of the capital stock of said corporation, such corporation shall be deemed to be fully organized. A copy of said certificate, duly certified by the secretary of state, or by the county clerk in whose office it is filed, shall be presumptive evidence of the due organization of such corporation in all courts and proceedings. Upon the production of the certified copy of said certificate, and upon the order of such corporation, the bank or trust company in which the percentage of subscriptions to the capital stock shall have been deposited, shall pay over to any such corporation the amount of such deposit, and said corporation shall repay to the purchaser or purchasers at the sale provided for in section seven of this act, the expenses paid by him or them to the city pursuant to the provisions of the terms of sale, with interest to the date of such repayment.

**MODIFICATION OF PLANS, ETC. ; CERTIFICATES THEREOF ;
FILING OF CERTIFICATE AND MODIFIED PLAN.**

§ 14. The said board of rapid transit railroad commissioners, if, in their judgment, the public interest requires, may, at any time after the full organization of any such corporation, by the concurrent vote of four members, authorize such corporation to alter or add to the detailed plans and specifications contained in its articles or association, provided the plans and specifications as so modified do not change the route or routes of said railway and be not inconsistent

with the general plan of construction, adopted under the provisions of section four of this act, and provided also such modifications be first approved by a vote of two-thirds of the directors of said corporation present and voting at any special meeting duly called for the purpose, by written notice stating the nature of the business to be transacted at said meeting. When such authorization by the board of rapid transit railroad commissioners shall have been given, a certificate shall be prepared, and acknowledged by the president and a majority of the directors of said corporation, stating the nature of the modification, and that the same has been approved by the board of directors in the manner above set forth, to which certificate there shall be attached a copy of so much of the original plans and specifications as are to be affected by the modification, and also the plans and specifications as modified. There shall also be contained in such certificate a declaration of the approval of said board of rapid transit railroad commissioners, attested in the same manner as the certificate of full organization. The said certificate, plans and specifications shall then be filed in the office of the secretary of state, and a certified copy or duplicate thereof shall be filed in the office of the clerk in which the articles of association are filed. And thereupon said corporation shall be authorized to construct its railway or railways and appurtenances in accordance with such modified plans and specifications.

PRINCIPAL OFFICE AND PLACE OF TAXATION.

§ 15. Every corporation organized under this act shall have its principal office and be taxed on its property in the city where its railway or railways are situated. But no taxes of any kind or nature shall be levied or imposed upon that portion of any railway constructed under this act which is in process of construction, and not in actual operation for the transportation of passengers or freight, but this exemption from taxation during construction shall not apply to any portion or portions of said railway after the date on which said portion or portions shall have been opened to the public for the transportation of passengers or freight. (*Thus amended by chap. 556, Laws 1892.*)

BOARD OF DIRECTORS; VACANCIES AND QUALIFICATIONS; EXHIBITION OF BOOKS.

§ 16. The affairs of said corporation shall be managed by a board of thirteen directors, who shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the

election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. No person shall be a director unless he shall be a stockholder owning one hundred shares of stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books and papers of such corporation shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

PAYMENT OF SUBSCRIPTION TO STOCK.

§ 17. The directors shall require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed in money at such times and in such installments as they may deem proper, not inconsistent with the by-laws and the articles of association.

PERSONAL LIABILITY OF STOCKHOLDERS; NOTICE AND COMMENCEMENT OF ACTION; RECOVERY BY STOCKHOLDER.

§ 18. Each stockholder of any corporation formed under this act shall be individually liable to the creditors of such corporation, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such corporation, until the whole amount of the capital stock so held by him shall have been paid to the corporation; and all the stockholders of any such corporation, shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services, for thirty days' service performed for such corporation, but shall not be liable to an action therefor before an execution or executions shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution or executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and he shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold.

TRANSFER OF STOCK

§ 19. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed

by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

INCREASE OR REDUCTION OF CAPITAL; NOTICE TO STOCKHOLDERS; STATEMENT TO BE MADE AND FILED.

§ 20. Any corporation formed under this act may increase or reduce its capital stock from time to time upon obtaining the approval of the board of rapid transit railroad commissioners by a concurrent vote of four members thereof. Such increase or reduction must be approved by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the corporation, at a meeting of such stockholders called by the directors of the corporation for that purpose, by a notice in writing to each stockholder, to be served on him in the manner provided for service of the notice of the subscribers' meetings provided for in section eleven of this act. Such notice shall state the time and place of the meeting, and its object, and the amount to which it is proposed to increase or reduce the capital stock. A statement of the increase or reduction shall be signed by the president and a majority of the directors and shall be filed in the office of the secretary of state and of the clerk of the county in which the original articles of association are filed. There must be attached thereto a certificate of the approval of said board of rapid transit railroad commissioners attested in the same manner as the certificate of full organization.

LIABILITY OF CERTAIN HOLDERS OF STOCK.

§ 21. No person holding stock in any such corporation, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as a stockholder of such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

LIABILITY OF CORPORATION TO EMPLOYE; OF CONTRACTORS; NOTICE TO BE GIVEN; ACTION WHEN COMMENCED.

§ 22. As often as any contractor for the construction of any part of a railway, which is in progress of construction under the provisions of this act, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said corporation in the manner herein

provided; and said corporation shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said corporation therefor. Such notice shall be given by said laborer to said corporation within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed and the name of the contractor from whom due, and shall be signed by such laborer or his attorney, and shall be served on an engineer, agent or superintendent employed by such corporation having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any corporation under the provisions of this section, unless the same be commenced within thirty days after notice is given to such company by such laborer as above provided.

REAL ESTATE; PROCEEDINGS TO ACQUIRE TITLE.

§ 23. Every such corporation shall have the right to acquire and hold such real estate or easement or other interest therein, or rights appertaining thereto, as may be necessary to enable it to construct, maintain and operate the said railway, or railways, and such as may be necessary for stations, depots, engine-house, car-houses, machine-shops and other appurtenances specified in the articles of association; and in case any such corporation can not agree with the owner or owners of such property it shall have the right to acquire title to the same in pursuance of the terms of and in the manner prescribed in title one of chapter twenty-three of the Code of Civil Procedure, known as the condemnation law.

CORPORATE POWERS; VOLUNTARY GRANTS; PURCHASE OF PROPERTY; MAY CROSS AND UNITE WITH OTHER ROADS; COMPENSATION; TRANSPORTATION OF PERSONS AND PROPERTY; ENTRY UPON STREETS, ETC.; CONSTRUCTION AND MAINTENANCE OF ROAD; EXCAVATIONS; PARKS AND STREETS, USE OR OCCUPANCY OF; RIGHT TO BORROW MONEY AND ISSUE BONDS.

§ 24. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railway or railways, but the real estate received by voluntary grant shall be held and used for the purpose of such grant only.

2. To purchase, lease, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railway or railways, and the stations or other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing or in any way affecting the act, entitled, "An act authorizing the construction of railroads upon Indian lands," passed May twelve, eighteen hundred and thirty-six.

3. To cross, intersect, join and unite its railway or railways with any other railway at any point on its route and upon the grounds of such other railway company, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the object of its connections. And every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the owners of such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, the same shall be ascertained and determined by commissioners to be appointed by the court, in the manner provided in this act in respect to acquiring title to real estate. And if the two corporations cannot agree upon the points and manner of such crossings and connections, the board of rapid transit railroad commissioners shall determine the same on the application of either corporation.

4. To take and convey persons and property on its railway or railways by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor not inconsistent with the provisions of this act, and the terms of sale under which the said corporation shall have acquired its rights, privileges and franchises.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said board of rapid transit railroad commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said board, a railway or railways upon the route or routes, and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the said board, and which may be necessary for operating the same, except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway in actual operation at the grade thereof, and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surfaces of said streets around such foundations, piers and columns shall be restored to the

condition in which they were before such excavations were made, as near as may be, and under the direction of the proper local authorities; and in all cases the use of streets, avenues, places and lands designated by the said board, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for such purposes; but the amount of such bonds outstanding at any one time shall not exceed the amount limited by the articles of association. (*Thus amended by chap. 556, Laws of 1892.*)

EMPLOYEES TO WEAR BADGES.

§ 25. Every conductor, baggage master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letter of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

CARRYING OF MAILS; EXTRA TRAINS THEREFOR.

§ 26. Any corporation or person operating a railroad under any provision of this act or of any act supplementary hereto or amendatory hereof shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case the parties cannot agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and conditions of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less

for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid. (*Thus amended by chap. 519, Laws of 1895.*)

EJECTION OF PASSENGERS FROM CARS.

§ 27. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, on stopping the train.

RUNNING OF CARS AND CONVEYANCE OF FREIGHT AND PASSENGERS.

§ 28. Every such corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junction of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor, and shall be liable to the party aggrieved in an action for damages, for any neglect or refusal in the premises.

INTOXICATION OF EMPLOYEES.

§ 29. If any person shall, while in charge of a locomotive engine running upon the railway of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

§ 30. If any person or persons shall willfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of or on any part of any railroad either constructed or operated under any provision of this act or of any act supplementary hereto or amendatory hereof, or under any provision of any contract made under this act or any act supplementary hereto or amendatory hereof, or any engine, machine or structure, or any matter or thing appertaining to the same,

shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the owner of such building, construction, works, engine, machine, structure, matter or thing treble the amount of damages sustained in consequence of such offense. (*Thus amended by chap. 519, Laws of 1895.*)

DISSOLUTION BY LEGISLATURE

§ 31. The legislature may, at any time annul or dissolve any corporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporations, its stockholders or officers, for any liability which shall have been previously incurred.

POWER TO FIX CONNECTING ROUTES AND EXTEND LINES; ADDITIONAL TRACKS AND FACILITIES; PLANS, COMPENSATION, ETC.

§ 32. The said board of rapid transit railroad commissioners may also from time to time, upon application of any railway corporation owning or actually operating a railroad wholly or in part within the limits of the city in which the said board has power to act, if in the judgment of said board the public interests so demand, by the concurrent vote of six of the members of said board fix and determine the route or routes by which any such railway company may connect with other steam railways, or the stations thereof, or with steam ferries, or may extend its lines within said city, and may authorize any such railway company to lay an additional track or tracks on, above, under or contiguous to a portion or the whole of the route or routes of its railway or railways within said city and to acquire terminal or other facilities necessary for the accommodation of the traveling public on any street or place except the place now known as Battery park on which said railway shall be located; and may also authorize any such railway company to lay its tracks and operate its railway to any terminal or terminals within the said city, and to transport over the same passengers or freight or both, and to run over the same either passenger trains or freight trains or mixed trains; and the said board shall fix and determine the locations and plans of construction of the railways upon such route or routes and of such tracks and facilities, the times within which they shall be respectively constructed, the compensation to be made therefor to the city by said railway company, and such other terms, conditions and requirements as to the said board may appear just and proper,—provided, however, that every such determination, authorization and license shall be made upon the condition that such corporation shall, from the time of the commencement of

the operation of any such railway or track or tracks under such determination, authorization or license, annually pay to the said city a sum or rental, and that the amount of such sum or rental for a period of not more than thirty-five years, beginning with such operation of any such railway track or tracks, shall be prescribed by the said board in such determination, authorization or license, and that every such determination, authorization and license shall provide for the readjustment of the amount of such sum or rental at the expiration of the period for which the same shall be so prescribed and for readjustment from time to time in the future of the amount of such annual payment at intervals each of not more than thirty-five years. A certificate shall be prepared by the said board, attested by its seal and the signature of its presiding officer, setting forth in detail the action taken by the said board with respect to such connecting or extended route or routes and such tracks and facilities, and the terms, conditions and requirements aforesaid, including provisions as to the said annual payments and the future readjustments thereof. A like certificate shall be prepared in like manner upon every modification of the terms of the contract as hereinafter provided. Each such certificate shall prescribe the terms and conditions of the readjustments of such annual payments and may provide for the determination of such amount upon such readjustments by arbitration or by the supreme court. Such certificate shall be delivered to said railway corporation upon the receipt by said board of a written acceptance of said terms, conditions and requirements, duly executed by said railway corporation, so as to entitle it to be recorded. The said certificates shall be filed in the office of the secretary of state, and a duly certified copy thereof shall be filed in the office of the clerk of the county in which the said city is situated, and thereupon, and upon fulfillment by such railway corporation, so far as it relates to such connections, additional track or tracks, or facilities, of such of the requirements and conditions as are necessary to be fulfilled in such cases, under section eighteen of article three of the constitution of this state, and upon fulfillment by such railway corporation of such other terms, conditions and requirements enumerated in said certificate, as the said board may require to be fulfilled as a condition precedent to commencing said work, said railway company shall in such cases possess in addition to existing franchises all the powers conferred by this act upon corporations specially formed thereunder, with respect to its railways authorized to be constructed as aforesaid, and when any route or routes, additional track or tracks, or terminal or other facilities, shall be so fixed and determined, and a certificate as aforesaid shall have been duly filed, such railway company may construct the same with all the rights, and with like effect as though the same had been a part of the original route

of its railway then in actual operation. The certificate or certificates prepared by the board of rapid transit railroad commissioners as aforesaid when delivered to and accepted by such railway corporation, shall be deemed to constitute a contract between the said city and said railway company according to the terms of the said certificate; and such contract shall be enforceable by the said board acting in the name of and in behalf of the said city or by the said company according to the terms thereof, but subject to the provisions of this act. The terms of such contract may from time to time, with the consent of such company, be modified by the board of rapid transit railroad commissioners by the vote of six of its members. But the construction and operation of such connections, extensions, additional track or tracks, or facilities, are hereby authorized only upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon, above or under which it is proposed to construct or operate the same, be first obtained, or in case the consent of such property-owners can not be obtained, the general term of the supreme court in the district in which they are proposed to be constructed, may, upon application, in the same manner, and on the same notice specified in section five of this act, appoint three commissioners, who shall determine after a hearing of all parties interested, whether the same ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property-owners. (*Thus amended by chap. 519, Laws of 1895.*)

REMOVAL OF HORSE RAILWAY TRACKS, ETC.; COSTS AND CHARGES.

§ 33. Wherever or whenever the route selected by the said board of rapid transit railroad commissioners for the construction of such railway shall intersect, cross or coincide with any railway track or tracks occupying the surface of any street or avenues, or the construction or operation of said railway shall interfere with any pipes, sewers, subways, or underground conduits or ways, any corporation organized under this act, or any contractor or person constructing any railway or part of a railway under any contract made with the board of rapid transit railroad commissioners, is hereby authorized, for the purpose of constructing the said work, to remove the track or tracks of any such surface railway or railways, or any such pipes, sewers, subways, or underground conduits or ways, but the same shall be done in such manner as to interfere as little as possible with the practical operation of workings of such surface railway or railways, or the works or business of the owners of any such pipes,

sewers, subways, or underground conduits or ways, and upon the construction of such railways built under and in conformity with the provisions of this act, where such removals or changes have been made, said track or tracks, pipes, sewers, subways or underground conduits or ways shall be restored as nearly as may be to the condition in which they were previous to the construction of any such railway built under the provisions of this act, and any damages which such company or companies or owners may sustain shall be ascertained by a commission to be appointed the same as in the case where lands are taken for the purpose of a railway route or routes as hereinbefore provided in this act. For the purpose of the construction or operation of any railway under the provisions of this act, the board of rapid transit railroad commissioners may remove or cause to be removed, any pipes, sewers, subways or underground conduits or ways underneath any street, highway, park, or public place; provided, however, that the same shall be replaced as soon as practicable, either in the same position as before or in a secure and convenient position underneath such street, highway or public place, or underneath such other street, highway or public place as may be approved by the head of the department of public works of the city. Provided, however, that nothing in this section contained shall authorize the permanent removal from any street, highway, park or public place of any subways or conduits for the reception of electrical conductors which shall have been placed in such street, highway or public place prior to the construction of the rapid transit railroad. All such removals and restorations shall be made at the proper cost and charge of such corporation, contractor or person as may have made such removals, but subject to the provisions of its, his or their contract, if any, with the board of rapid transit railway commissioners. Nothing contained in this act shall authorize any corporation formed thereunder to use the tracks of any horse railway. For the purpose of facilitating construction, and to diminish the period of occupancy of any street for the transportation of material, any contractor acting under a contract made in pursuance of this act, or of any act supplementary hereto or amendatory hereof, may, with the approval of the board of rapid transit railroad commissioners, lay upon or over the surface of any street, temporary tramways, to be used only for the removal of excavated materials or the transportation of material for use in the construction; provided, however, that any such tramway shall be forthwith removed upon the direction of the board of rapid transit railroad commissioners; and provided, further, that this provision shall not be construed to authorize the construction or operation of any street railroad or to grant to any corporation, association or individual the right to lay down railroad tracks. *(Thus amended by chap. 729, Laws of 1896.)*

§ 34. In case the people shall determine by vote, as provided in sections twelve and thirteen of chapter seven hundred and fifty-two of the laws of eighteen hundred and ninety-four, that any such railway or railways shall be constructed for and at the expense of such city, then and in that event it shall be the duty of said board to consider the routes, plans and specifications, if any, previously laid out and adopted by them or their predecessors, and for which the consents have been obtained referred to in section five of this act; and either to proceed with the construction of such railway or railways, and provide for the operation of the same, as hereinafter provided, or to change and modify the said routes, plans or specifications in such particulars as to said board may seem to be desirable, or to adopt other or different routes, plans and specifications for such railway or railways; provided, always, that in all cases in which any such change or modification shall be of such character as to require the consents thereto referred to in section five of this act; and in all cases where other or different routes or general plans may have been so adopted the said board shall proceed to secure the consents required to be obtained by section five of this act as therein set forth. As soon as such consents, where necessary, shall have been obtained, and the detailed plans and specifications have been prepared as provided in section six of this act, the said board, for and in behalf of said city, shall enter into a contract with any person, firm or corporation, which in the opinion of said board shall be best qualified to fulfill and carry out said contract, for the construction of such road or roads upon the routes and in accordance with the plans and specifications so adopted, for such sum or sums of money, to be raised and paid out of the treasury of said city, as hereinafter provided, and on such terms and conditions, not inconsistent with the aforesaid plans and specifications, as said board shall determine to be best for the public interests. And said board may contract for the construction of the whole road, or all the roads provided for by the aforesaid plans in a single contract, or made by separate contracts, executed from time to time, provide for the construction of parts of said road or roads or for the construction at first of two or more tracks over a part or parts of such road or roads and afterwards of one or more additional tracks over a part or parts of such road or roads as the necessities of said city and the increase of its population may in the judgment of said board require. The board may also, in a contract for a part of such a road, insert a provision that, at a future time, upon the requirement of the board, the contractor shall construct the remainder or any part of the remainder of said road, as the growth of population or the interests of the

city may, in the judgment of the board, require, and may, in such contract, insert a provision of a method for fixing and ascertaining at such future time the amount to be paid to the contractor for such additional construction, and to the end of such ascertainment, may provide for arbitration or for determination by a court of the amount of such compensation, or of any other details of construction which shall not be prescribed in the contract, but which shall be deemed necessary or convenient by said board. Any such contract may provide, if the public interests shall, in the opinion of the board, justify the provision, that the construction of any section or portion of the road, may, with the consent of the board, be suspended during the term of operation of the railroad as hereinafter mentioned, or any part of such term; provided, that during such term or part of term the contractor shall use, in lieu of such portion of the road, a railroad owned or leased by the contractor or a portion or section thereof, which shall, with the railroad or portion of railroad constructed by it under its contract with the board, form a continuous and convenient route. Such contract shall also provide that the person, firm or corporation so contracting to construct said road or roads shall, at his, or its own cost and expense, equip, maintain and operate said road or roads for a term of years to be specified in said contract, not less than thirty-five nor more than fifty years, and upon such terms and conditions as to the rates or fare to be charged and the character of service to be furnished and otherwise as said board shall deem to be suited to the public interests, and subject to such public supervision and to such conditions, regulations and requirements as may be determined upon by said board; provided, that in case the contract shall provide for construction at different times or at intervals of time of different parts of a road, or if the contract shall provide for the use by the contractor of an existing railroad as part of continuous route as aforesaid, then and in any such case the board of rapid transit railroad commissioners may, in its discretion, prescribe periods for the operation of the different parts of said road so that at one period of time in the future the board may be enabled to make a single operating contract or lease of the entire road. Such contract shall further provide, by proper stipulations and covenants on the part of the said city, that the said city shall secure and assure to the contractor, so long as the contractor shall perform the stipulations of the contract, the right to construct and to operate the road as prescribed in the contract, free of all right, claim or other interference, whether by injunction, suit for damages or otherwise, on the part of the owner, abutting owner or other person. Such contract shall

further provide that the person, firm or corporation so contracting to construct, maintain and operate said road shall annually pay into the treasury of said city, as rental for the use of said road, a sum which shall not, except as hereinafter provided, be less than the annual interest upon the bonds to be issued by said city for the construction of said road as hereinafter provided for, and in addition to said interest, a further sum which shall be equal to a percentage of not less than one per centum upon the whole amount of said bonds; provided, that in estimating such annual interest and additional percentage there shall be deducted from the amount of said bonds the amount thereof issued to pay for rights, terms, easements, privileges or property other than lands acquired in fee. And provided, further, that the said contract may, in the discretion of the said board, provide that the payment of the said further sum of not less than one per centum upon the amount of said bonds as aforesaid, shall begin at a date not more than five years after the date at which the payment of rental shall begin, and that the said annual rate, instead of one per centum, may be a rate not less than one-half per centum for a further period not exceeding five years; but in case the contractor shall, during any year in which the said payment of one per centum shall be suspended or reduced as aforesaid, earn a greater profit upon his, its or their net capital invested in the enterprise than five per centum, then the surplus of his, its or their earnings for such year up to the extent of at least one per centum shall be paid as rental as aforesaid. Such rental and the term for the operation of said road shall begin, as to said road, or any section thereof, when the same shall be declared by the board of rapid transit railroad commissioners to be completed and ready for operation. For the purpose of estimating such one per centum per annum upon the ascertainment of the amount of such rental, there shall be included such portion of the said bonds as shall have been issued to pay interest on bonds heretofore issued under the provisions of this act, except bonds issued to pay for rights, terms, easements, privileges or property other than lands acquired in fee. The aforesaid annual rental shall be paid at such times during each year as said board shall require, and shall be applied first to the payment of the interest on said bonds, as the same shall accrue and fall due, and the remainder of said rental not required for the payment of said interest shall be paid into the sinking fund, for the payment of the city debt, if there shall be such sinking fund in said city, or, if there be none such, then said balance of said rental shall be securely invested, and, with the annual accretions of interest thereon, shall constitute a sinking fund for

the payment and redemption at maturity of the bonds issued, as hereinafter provided. Said contract may also provide for a renewal or renewals of the lease of said road upon the expiration of the original term and of any renewals of the same, upon such terms and conditions as to said board may seem just and proper, and may also contain provisions for the valuation of the whole or a part of the property of said contracting person, firm or corporation, employed in and about the equipment, maintenance and operation of said road, and for the purchase of the same by the city, at such valuation, or a percentage of the same, should said lease not be so renewed at any time. Said contract may provide for the construction of said road in sections, and, except as herein otherwise provided, shall specify when the construction of said road, or sections of the same shall be commenced, and, in each case, the date of completion. It shall also state the date on which the operation of the road, or of any section thereof, shall commence. The person, firm or corporation so contracting for the construction, equipment, maintenance and operation of said road shall give a bond to said city, in such amount as said board of rapid transit railroad commissioners shall require, and with sureties to be approved by said board, who shall justify in the aggregate in double the amount of said bond. Said bond shall be a continuing security, and shall provide for the prompt payment by said contracting person, firm or corporation, of the amount of annual rental specified in the aforesaid contract, and also for the faithful performance by said contracting person, firm or corporation of all the conditions, covenants and requirements specified and provided for in said contract. The said contracting person, firm or corporation shall also, simultaneously with the execution and delivery of said contract, deposit with the comptroller or other chief financial officer of such city the sum of one million dollars in cash or in securities of a value not less than one million dollars, which securities shall be of the character of those in which the savings banks of this state are authorized by law to invest moneys, and shall be approved by the board of rapid transit railroad commissioners, which cash or securities shall, under such terms and conditions as shall be provided in the said contract, be further security for the faithful performance by such contracting person, firm or corporation of all the covenants, conditions and requirements specified and provided for in said contract relating to the construction and equipment of said road, and the city in and for which said road shall be constructed shall also have a first lien upon the rolling stock and other property of said contracting person, firm or corporation, constituting the equipment of said road and used or intended for use in

the maintenance and operation of the same, as further security for the faithful performance of such contracting person, firm or corporation of the covenant, conditions and agreements of said contract, on his, their, or its part to be fulfilled and performed, and in case of the breach of any such covenant, condition and agreement said lien shall be subject to foreclosure by action, at the suit of such city, in the same manner, as far as may be, as is then provided by law in the case of foreclosure by action of mortgages on real estate. The said board of rapid transit railroad commissioners may, however, from time to time, by a concurrent vote of six of the members of said board, relieve from such lien any of the property to which the same may attach, upon receiving additional security, which may be deemed by said board so voting to be the equivalent of that which it is proposed to release and otherwise upon such terms as to such board so voting shall seem just. Upon the completion of the construction and equipment of said road to the satisfaction of said board, and when the operation of the same shall have commenced pursuant to said contract, it shall be the duty of the comptroller or other chief financial officer to pay to the said contracting person, firm or corporation said sum of one million dollars in cash or the said securities so to be deposited as above provided, and the said contracting person, firm or corporation shall also be then entitled to be credited upon the rental which he, they or it shall have contracted to pay to said city for the use of said road the sum which shall be equal, as the case may be, either to the interest on the sum of one million dollars for the time of such deposit at the rate of interest provided for in the bonds which shall have been issued and sold by the city to provide for the construction of said road, or to the interest, dividends or other income which said city shall have received from the said securities. The said contract shall further provide that in case of default in paying the annual sum or rental therein provided for, or in case of the failure or neglect on the part of said contracting person, firm or corporation, faithfully to observe, keep and fulfill the conditions, obligations and requirements of said contract, the said city, by its board of rapid transit railroad commissioners, may take possession of said road and the equipment thereof, and as the agent of said contracting person, firm or corporation, either maintain and operate said road, or enter into a contract with some other person, firm or corporation for the maintenance and operation thereof, retaining out of the proceeds of such operation, after the payment of the necessary expenses of operation and maintenance, the annual rental hereinbefore referred to, and paying over the balance, if any, to the person, firm or corporation with whom the first

contract above mentioned was made, and if such proceeds of the operation of said road, after the payment of the necessary expenses of maintenance and operation, including the keeping in repairs of the rolling stock and other equipment, shall in any year be less than the annual rental hereinbefore referred to and provided in the first contract, then, and in that case, the said contracting person, firm or corporation, and his or its bondsmen, shall be and continue jointly and severally liable to the aforesaid city for the amount of such deficiency, until the end of the full term for which the said first contract was originally made. No contract entered into under authority of this act shall be assigned without the written consent of the said board of rapid transit railroad commissioners, concurred in by six members of said board. It shall be deemed to be part of every such contract that, in case the board of rapid transit railroad commissioners shall cease to exist, the legislature may provide what public officer or officers of the city shall exercise the powers and duties belonging to the board of rapid transit railroad commissioners under or by virtue of any such contract, and that in default of such provisions, such powers and duties shall be deemed to be vested in the mayor of the city. Every such contract shall provide that if the contracting person, firm or corporation shall fail to construct or operate the railway according to the terms of the contract, and shall, after due notice of its default, omit for more than a reasonable time to comply with the provisions of such contract, the board of rapid transit railroad commissioners may bring an action in the name and in behalf of the city to forfeit and vacate all the rights of such contracting person, firm or corporation under such contract, and for damages and otherwise as may be necessary for the sufficient and just protection of the rights of the city; or may, upon such terms as to the board of rapid transit railroad commissioners seem just, and with such person or corporation as to the said board may seem proper, make another operating contract and lease of the said road for the residue of the term of the contractor in default; and may bring action in the name and on behalf of the city to recover from the contractor the amount due from the contractor, less the amount which shall have been received by the city, under or by virtue of such new contract, and for all other damages sustained by the city by reason of such default. Any railroad corporation organized under the laws of this state, or any existing railway corporation owning or actually operating a railway wholly or in part within the limits of the city in and for which said board has power to act, or any corporation organized under the business corporation laws of this state, and approved by the said board of rapid transit railroad com-

missioners, shall be competent and is hereby authorized to enter into a contract for the construction and operation of any railway pursuant to the provisions of this chapter, and shall have all the powers necessary to the due performance of such contract. Where in this section the consents referred to in section five of this act are mentioned, they shall be construed to include any consent given by the commissioners appointed by the general term or appellate division of the supreme court, and confirmed by the said general term or appellate division in lieu of the consent of property owners as hereinbefore provided. (*Thus amended by chap. 729, Laws of 1896.*)

§ 35. The equipment to be supplied by the person, firm or corporation operating such road shall include all rolling stock, motors, boilers, engines, wires, ways, conduits and mechanisms, machinery, tools, implements and devices of every nature whatsoever used for the generation or transmission of motive power and including all power houses, and all apparatus and all devices for signaling and ventilation. Such person, firm or corporation shall be exempt from taxation in respect to his, their or its interest under said contract and in respect to the rolling stock and all other equipment of said road, but this exemption shall not extend to any real property which may be owned or employed by said person, firm or corporation in connection with the said road. (*Thus amended by chap. 729, Laws of 1896.*)

§ 36. The said board of rapid transit railroad commissioners before awarding any contract or contracts shall advertise for proposals for such contracts by a notice to be printed twice a week for three successive weeks in no less than four of the daily newspapers published in said city; and in such newspapers published elsewhere than in said city as said board shall determine. Such notice shall set forth and state the points within said city, between which said road or roads is or are to run, the general method of construction, the route or routes to be followed, the term of years for which it is proposed to make such contract, and such other details and specifications as said board shall deem to be proper. Said notice shall state the time and place at which said proposals will be opened, and the said board shall attend at the time and place so specified, and shall publicly open all proposals that shall have been received, but the said board shall not be bound to accept any proposals so received, but may reject all such proposals and readvertise for proposals in the manner hereinbefore provided, or may accept any of such proposals as will, in the judgment of such board, best promote the public interest, and award a contract accordingly. (*Thus amended by chap. 519, Laws 1895.*)

§ 37. For the purpose of providing the necessary means for such

construction, at the public expense, of any such road or roads and the necessary means to pay for lands, property, rights, terms, privileges and easements, whether of owners, abutting owners, or others, which shall be acquired by the city for the purposes of the construction or the operation of such road or roads as hereinafter provided, and of meeting the interest on the bonds in this section hereinafter provided for accruing thereon prior to the completion and readiness for operation of the portion of such road or roads for the construction of which such bonds shall have been respectively issued, the board of estimate and apportionment, or other local authority in said city, in which such road or roads are to be constructed, having power to make appropriations of moneys to be raised by taxation therein, from time to time, and as the same shall be necessary, and upon the requisition of said board of rapid transit railroad commissioners, shall direct the comptroller, or other chief financial officer of said city, and it shall thereupon become his duty to issue the bonds of said city at such a rate of interest, not exceeding three and one-half per centum per annum, as said board of estimate and apportionment, or other local authority directing the issue of such bonds, may prescribe. Said bonds shall provide for the payment of the principal and interest in gold coin of the United States of America. They shall not be sold for less than the par value thereof, and the proceeds of the same shall be paid out and expended for the purposes for which the same are issued, upon vouchers certified by said board of rapid transit railroad commissioners. Said bonds shall be free from all taxation for city and county purposes, and shall be payable at maturity out of the sinking fund for the payment of the city debt, if there be such a sinking fund of said city; but if there be no such sinking fund, then out of a sinking fund to be established and created out of the annual rentals of said road as hereinbefore provided. But this provision that the said bonds shall be payable out of such sinking fund shall not diminish or affect the obligation of said city as a debtor upon said bonds, or any other right or remedy of any holder or owner of any such bonds, to collect the principal or interest thereof. The amount of bonds authorized to be issued and sold by this section shall not exceed fifty millions of dollars, par value, without the consent of the legislature first had and obtained, provided, however, that such amount shall be increased by a sum not exceeding five millions of dollars, if the board of rapid transit railroad commissioners shall certify that such increase is made necessary by payments required for any lands, property, rights,

terms, easements or privileges which shall be acquired by the said city as hereinafter provided. (*Thus amended by chap. 519, Laws of 1895.*)

§ 38. The board of rapid transit railroad commissioners for and on behalf of the said city in which such road or roads may be constructed, may, from time to time, with the concurrence of six members of said board and the consent, in writing, of the bondsmen or sureties of the person, firm or corporation which has contracted to construct, equip, maintain and operate said road or roads, or any of them, agree with said contracting person, firm or corporation upon changes in and modifications of said contract, or of the plans and specifications upon which said road or roads is or are to be constructed, but no change or modifications in the plans and specifications consented to and authorized pursuant to section five of this act shall be made without the further consent and authorization provided for in said section; but in no event shall the annual rental to be paid to said city, for the use of said road, be reduced below the minimum rate hereinbefore provided. (*Thus amended by chap. 519, Laws of 1895.*)

§ 39. For the purpose of constructing or operating any road for the construction and operation of which a contract shall have been made by the board of rapid transit railroad commissioners, including necessary stations and station approaches, or for the purpose of operating or securing the operation of the same free of interference and right of interference and of action and right of action for damages and otherwise, whether by abutting owners or others, or to provide, lay or maintain conduits, pipes, ways or other means for the transmission of electricity, steam, water, air or other source or means of power or of signals or of messages necessary or convenient for or in the construction or operation of such road, or for the transportation of materials necessary for such construction or operation, or to provide a temporary or permanent way or course for any such conduit, pipe or other means or source of transportation, said board for and in behalf of said city may acquire as in this act provided, any real estate and any rights, terms and interest therein, any and all rights, privileges, franchises and easements, whether of owners or abutting owners, or others, including rights of owners, abutting owners, or others to interfere with the construction or operation of such road or to recover damages therefor, which, in the opinion of the board, it shall be necessary to acquire or extinguish for the purpose of constructing and operating such road free of interference or right of interference. The word "property" hereinafter used shall be deemed to include any such real estate, and any rights, terms and interests therein, and any such rights, privileges, franchises and easements, whether of owners, abutting owners, or others. Where any contractor for the construction or operation of any such railroad shall require any property for such construction or operation, such property shall be deemed to be required for a public purpose; and with the approval of the said board of rapid transit railroad commissioners the same may be acquired by the said contractor in all respects as such property may be acquired by the said board of rapid transit railroad

commissioners for the said city, and all proceedings to acquire the said property shall be conducted under the direction and subject to the approval of the rapid transit railroad commissioners. (*Thus amended by chap. 729, Laws of 1896.*)

§ 40. It shall and may be lawful for said board, and for all persons acting under its authority, to enter in the daytime into and upon any and all lands and property which it shall deem necessary to be acquired, or to which there may be appurtenant rights, terms, franchises, easements or privileges which it shall deem necessary to be acquired or extinguished by said city, for the purpose of making the maps or surveys hereinafter mentioned, and also to enter in like manner and for the same purpose upon any property adjacent to and within five hundred feet of the property to be so surveyed; and the said board shall cause three similar maps or plans to be made of each parcel of property which it may deem necessary so to be acquired, or to which there may be appurtenant rights, terms, franchises, easements or privileges necessary so to be acquired or extinguished, designating each of said parcels by a number, and upon each map or plan so made or in a memorandum accompanying the same and to be deemed part thereof the said board shall cause to be clearly indicated the particular estate or estates, rights, terms, privileges, franchises or easements to be acquired or extinguished for the purposes of this act, in relation to each and every piece or parcel of property described upon said map or plan. The said board shall have power to cause a triplicate set of maps or plans and memoranda as herein provided for to be made as often and at such times as said board shall determine, and each set of maps or plans and memoranda so made shall contain the particulars above enumerated within such district as said board shall in each case provide. The maps or plans and memoranda herein provided for, when approved and adopted by said board, shall have written thereon a certificate of such approval, signed by the members of said board adopting and approving the same, and one copy thereof shall be filed in the department of public works, or other chief executive department having principal charge of the streets, there to remain as a public record, and the other two of said maps or plans and memoranda shall be transmitted to the counsel to the corporation or other principal legal adviser of said city. The said board may from time to time make and file further maps or plans and memoranda amending those already filed, but not so as to defeat or impair any property or interest which shall have been already acquired, or to revive any interest or right which may have been

already extinguished by the said city. (*Thus amended by chap. 519, Laws 1895.*)

§ 41. Whenever and as often as the said board shall deem it to be necessary and proper that the said city should acquire any such property and shall have caused to be made, as provided in the last preceding sections, the maps or plans and memoranda specifying and defining the said property to be acquired, or to which are appurtenant the rights, terms, franchises, easements or privileges to be acquired or extinguished, and shall have certified, filed and transmitted the several copies of such maps or plans as in the last section prescribed, the said board may direct the counsel to the corporation or other principal legal adviser of said city, to take legal proceedings to acquire the same for the said city, and the said counsel to the corporation, or other principal legal adviser, shall thereupon take proceedings as in this act provided. (*Thus amended by chap. 519, Laws 1895.*)

§ 42. The said counsel to the corporation, or other principal legal adviser of said city, shall cause one of the maps or plans, so as aforesaid transmitted to him, to be filed in the office of the register of the county, or if there be no such register, then in the office of the county clerk of the county in which said city is situated. The map, hereinafter denominated the third map, being the other one of the two so as aforesaid transmitted to said counsel to the corporation, or other legal adviser, shall be disposed of as hereinafter provided. (*This section added by chap. 752, Laws 1894.*)

§ 43. After the said set shall have been filed as hereinbefore provided in the office of the register or county clerk of said county, the said counsel to the corporation, or other principal legal adviser, for and on behalf of the said city, shall, and he may from time to time, upon first giving the notice required by the next section of this act, apply to the supreme court at any special or general term thereof, to be held in the judicial district in which said city is situated, for the appointment of commissioners of appraisal. Upon each such application he shall present to the court a petition, signed by a majority of the members of said board and verified in the manner prescribed by law for the verification of pleadings, according to the practice of said court, setting forth the action or determination theretofore taken or had by said board, with respect to the property to be acquired, and the filing of said maps or plans and memoranda and praying for the appointment of such commissioners of appraisal. Such petition shall contain a general description of all the property to, or in or over or appurtenant to which any title, interest, right, franchise, easement, term or privilege is sought to be acquired or extinguished, and of every right, franchise, easement, or privilege sought to be

acquired, by the said city for public purposes, each lot or parcel being more particularly described by a reference to the number of said lot or parcel as given on said maps, and the title, interest, right, easement, term or privilege sought to be acquired, or extinguished, to or in or over or appurtenant to each of said lots or parcels shall be stated in said petition. (*Thus amended by chap. 519, Laws 1895.*)

§ 44. The said counsel to the corporation or other principal legal adviser shall give, or cause to be given, notice by publication in two public newspapers published in the said city, of his intention to make application to the said court for the appointment of such commissioners of appraisal, which notice shall state the time and place of such application, shall briefly state the object of the application and shall describe the property sought to be acquired or affected. A statement of the location and boundaries of the several lots or parcels of property and rights, franchises, easements, or privileges sought to be taken or affected, and a brief statement as to each of said lots or parcels of the title, interest, rights, easements, terms or privileges therein or appurtenant thereto, sought to be acquired or extinguished with a reference to the dates and places of filing the said maps or plans and memoranda shall be a sufficient description of the property sought to be so taken or affected. Such notice shall be so published daily, Sundays and holidays excepted, in said newspapers for six weeks immediately previous to the time fixed in said notice for the presentation of each petition. (*Thus amended by chap. 519, Laws 1895.*)

§ 45. At the time and place mentioned in said notice, unless the said court shall adjourn said application to a subsequent date, and in that event at the time to which the same may be adjourned, the court, upon due proof to its satisfaction of the publication aforesaid, and upon filing the said petition, shall make an order for the appointment of three disinterested freeholders, residents in said city, as commissioners of appraisal, to ascertain and appraise the compensation to be made to the owners of property so to be taken or extinguished for the purposes indicated in this act. Such order shall fix the time and place for the first meeting of the commissioners. (*This section added by chap. 752, Laws 1894.*)

§ 46. The said commissioners shall take and subscribe the oath required by the twelfth article of the constitution of the state of New York, and shall forthwith file the same in the office of the clerk of the county in which said city is situated. (*This section added by chap. 752, Laws 1894.*)

§ 47. On filing said oath in the manner provided in the last section, the said city shall be and become seized and possessed in fee or absolute ownership of all those parcels of property, rights, terms, franchises, easements and privileges which are in the maps or plans and memoranda

referred to in section forty of this act, described as parcels of property, rights, franchises, easements, or privileges which are to be acquired, and also shall become seized and possessed of all the rights, terms, franchises, easements or privileges appurtenant to any lots or parcels of property indicated on said maps or plans as parcels in regard to which it is deemed necessary to acquire such rights, terms, franchises, easements or privileges, or the said rights, terms, franchises, easements or privileges shall be extinguished, as the case may be; and the said board for the said city may immediately, or at any time or times thereafter, take possession or enter into the enjoyment of the said property, rights, terms, franchises, easements and privileges, or of any part or parts thereof, without any suit or proceeding at law for that purpose, and the said board for the said city, or any person or persons acting under their or its authority, may enter upon and use, occupy, and enjoy in perpetuity all the parcels of property and all the rights, terms, franchises, easements or privileges appurtenant to any of the parcels of property, and all rights, franchises, easements and privileges described on said maps or plans, or in said memoranda, for any of the purposes authorized and provided for by this act. But on such filing of the said oath the said city shall be and become forthwith liable to the respective owners of the several parcels of property and the several rights, terms, franchises, easements and privileges appertaining thereto, and of the said rights, franchises, easements and privileges acquired as aforesaid, for the true and respective values thereof, together with interest thereon from the time of filing the said oath, provided, however, that no such interest shall be payable to any owner of any such property, right, term, franchise, easement or privilege during any period during which the said city or the said board of rapid transit railroad commissioners may by any resistance, whether by legal proceedings or otherwise of such owner or with his authority, be prevented from taking possession thereof or enjoying the same; and provided, further, that no action shall be brought to recover the amount of such value or interest unless within eighteen months after the filing of such oath a report shall not have been duly made by commissioners of appraisal as herein provided, or such report shall not have been confirmed by the supreme court as herein provided, so that the said city shall be liable to forthwith pay the amount by such report ascertained to be due for such value or interest. (*Thus amended by chap. 519, Laws 1895.*)

§ 48. Any one of said commissioners of appraisal may issue subpoenas and administer oaths to witnesses, and they or any one of them, in the absence of the others, may adjourn the proceedings, from time to time in their discretion, but they shall continue to meet from time to time as may be necessary to hear, consider and determine upon all claims which may

be presented to them under any of the provisions of this act. In case of the death, resignation, refusal or neglect to serve of any commissioner of appraisal, the remaining commissioner or commissioners shall, upon ten days' notice, to be given by advertisement in the newspapers mentioned in section forty-four of this act, apply to the supreme court, at a special or general term thereof, to be held in the judicial district in which said city is situated, for the appointment of a commissioner or commissioners to fill the vacancy or vacancies so occasioned. In case of the death, resignation or refusal to serve of all the commissioners of appraisal, the said counsel to the corporation or other principal legal adviser to said city shall, on giving the notice required in this section, apply to the said court for the appointment of other commissioners of appraisal. It shall be the duty of the commissioners of appraisal to procure from the counsel to the corporation or other principal legal adviser the third set of maps or plans and memoranda provided for in sections forty and forty-two of this act. They shall view the property laid down on said map, and shall hear the proofs and allegations of any owner, lessee or other person in any way entitled to or interested in the property to be acquired or extinguished, or any part or parcel thereof, and also such proofs and allegations as may be offered on behalf of the said city. They shall reduce the testimony, if any, taken before them to writing, and after the testimony is closed, they, or a majority of them, all having considered the same, and having an opportunity to be present, shall without unnecessary delay, ascertain and determine the compensation which ought justly to be made by the said city to the owners or persons interested in the property acquired or extinguished by said proceedings. The said commissioners of appraisal shall make reports of their proceedings to the supreme court, as in the next section provided with the minutes of the testimony taken before them, if any, and they shall be entitled to the payment hereinafter provided for their services and expenses to be paid from the fund hereinafter specified. The said commissioners may make a single report or may make reports from time to time as they shall reach their several decisions as to different parcels of property. (*Thus amended by chap. 519, Laws 1895.*)

§ 49. The said commissioners shall prepare a report or reports, to which shall be annexed the third set of maps or plans and memoranda referred to in section forty-two of this act and therein denominated the third set or a copy thereof certified by them. Each said report shall contain a brief description of the property so taken or affected, with a reference to the map upon which the same is required to be indicated; a statement of the sums estimated and determined upon by them, as a just compensation for the same to be made by the city

to the owners or persons interested therein, and the names of such owners and persons; but in all and each and every case or cases where one or more of the owners and persons interested, or their respective estates or interests, are unknown, or not fully known, to the commissioners of appraisal, it shall be sufficient for them to set forth and state in general terms the respective sums to be allowed and paid to the owners of and persons interested therein, generally, without specifying the names or estates or interests of such owner or persons interested, or any or either of them. (*Thus amended by chap. 519, Laws 1895.*)

§ 50. Each said report, signed by said commissioners, or a majority of them, shall be filed in the office of the clerk of the county in which said city is situated, and the commissioners of appraisal shall, in each case, notify the counsel to the corporation, or other principal adviser to said city, as soon as any such report is filed. (*Thus amended by chap. 519, Laws 1895.*)

§ 51. The counsel to the corporation, or other principal legal adviser, or, in case of his neglect to do so within ten days after receiving notice of such filing, then any person interested in the proceedings shall give notice that the said report will be presented for confirmation to the supreme court, at a special term thereof, to be held in the judicial district in which said city is situated, at a time and place to be specified in said notice. The said notice shall contain a statement of the time and place of the filing of the report, and shall be published in two daily newspapers published in such city, for at least two weeks immediately prior to the presentation of said report for confirmation. (*Thus amended by chap. 519, Laws 1895.*)

§ 52. The application for the confirmation of each such report shall be made to the supreme court at a special term thereof, held in the judicial district in which said city is situated. Upon the hearing of the application for the confirmation thereof the said court shall confirm such report, and make an order containing a recital of the substance of the proceedings in the matter of the appraisal, with a general description of the property appraised and for which compensation is to be made, and shall also direct to whom the money is to be paid, and whether or not any part thereof, and, if so, what part, is to be deposited with the comptroller or other chief financial officer of said city with the chamberlain of said city, or if there be no chamberlain, with a bank or trust company to be designated by said court. Such report when so confirmed shall, except in the case of an appeal, as hereinafter provided, be final and conclusive, as well upon the said city as upon owners and all persons interested in or entitled to said property, and also upon all other persons whomsoever. (*Thus amended by chap. 519, Laws 1895.*)

§ 53. The said city shall, within four calendar months after the confirmation of any report of the commissioners of appraisal, pay to the respective owners and bodies politic or corporate mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by said commissioners, the respective sum or sums so estimated and reported in their favor respectively, with legal interest thereon from the date of filing the oath of said commissioners, and in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons or bodies politic or corporate, in whose favor the same shall be so reported, his, her or their executors, administrators, successors or assigns at any time or times after application first made by him, her or them, to the comptroller or other chief financial officer of said city for payment thereof, may sue for and recover the same, with lawful interest as aforesaid, and the costs of suit, in any proper form of action against the said city in any court having cognizance thereof, and in which it shall be sufficient to declare generally for so much money due to the plaintiff or plaintiffs therein by virtue of this act for property taken or extinguished for the purposes herein mentioned, and the report of said commissioners, with proof of the right and title of the plaintiff or plaintiffs to the sum or sums demanded shall be conclusive evidence in such suit or action. (*Thus amended by chap. 519, Laws 1895.*)

§ 54. Whenever the owner or owners, person or persons interested in any property taken or affected in such proceeding, or in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of twenty-one years, or of unsound mind or absent from the city, and also in all cases where the name or names of the owner or owners, person or persons, interested in any such property shall not be set forth or mentioned in said report or where the said owner or owners, person or persons, being named therein, can not, upon diligent inquiry, be found, or where there are adverse or conflicting claims to the money awarded as compensation, it shall be lawful for the said city to pay the sum or sums mentioned in said report, payable, or that would be coming to such owner or owners, person or persons, respectively, with interest, as aforesaid, to the chamberlain of said city, or, if there be no chamberlain, then to any bank or trust company designated by the court in the order confirming the report of the commissioners of appraisal, to the credit of such owner or owners, person or persons, and such payment shall be as valid and effectual in all respects as if made to the said owner or owners, person or persons, interested therein, respectively, according to their just rights; and, provided, also, that in all and each and every such case and cases where any sum or sums or compensation reported by the commis-

claimers in favor of any person or persons or parties whatsoever, whether named or not named in said report, shall be paid to any person or persons, or party or parties, whomsoever, when the same shall of right belong and ought to have been paid to some other person or persons, or party or parties, it shall be lawful for the person or persons, or party or parties, to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, as so much money had and received to his, her or their use by the person or persons, party or parties, respectively, to whom the same shall have been so paid. (*This section added by chap. 752, Laws 1894.*)

§ 55. Every owner or person in any way interested in any property taken or extinguished as contemplated in this act, if he intends to make claim for compensation for such taking or extinguishment, shall within three years after the appointment of the commissioners of appraisal exhibit to the said commissioners a statement of his claim, and shall thereupon be entitled to offer testimony and to be heard before them touching such claim and the compensation proper to be made him, and to have a determination made by such commissioners of appraisal as to the amount of such compensation. Every person neglecting or refusing to present such claim within said time shall be deemed to have surrendered his claim for such compensation, except so far as he may be entitled, as such owner or person interested, to the whole or a part of the sum of money awarded by the commissioners of appraisal as a just compensation for taking or extinguishing the property owned by said person, or in which the said person is interested. (*This section added by chap. 752, Laws 1894.*)

§ 56. Payment of the compensation awarded by said commissioners of appraisal to the persons named in their report (if not infants or persons of unsound mind) shall, in the absence of notice to the said city or other claimants to such award, protect the said city. (*This section added by chap. 752, Laws 1894.*)

§ 57. Said commissioners of appraisal may in their discretion take up any specified claim or claims, and finally ascertain and determine the compensation to be made thereon, and make a separate report with reference thereto, annexing to said report a copy of so much of the set of maps or plans and memoranda referred to in section forty-two of this act as indicates the property so reported on. Such report shall, as to claims therein specified, be the report required in this act, and the subsequent action with reference thereto, shall be had in the same manner as though no other claim were embraced in said proceeding, which, however, shall continue as to all claims upon which no such determination and report is made. (*Thus amended by chap. 519, Laws 1895.*)

§ 58. Within twenty days after notice of the confirmation of the report

of the commissioners, as provided for in section fifty-two of this act, which notice may, as to parties who have not appeared before the commissioners, be given in the manner provided in section fifty-one of this act, either party may appeal to the general term of the supreme court in the department in which such commissioners were appointed, from the appraisal and report of the commissioners and the order confirming the same. Such appeal shall be heard upon due notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal and determination of any question passed upon, by the same or new commissioners, in its discretion, and from any determination of the general term either party, if aggrieved, may take an appeal, which shall be heard and determined by the court of appeals. In the case of a new appraisal the second report shall be final and conclusive on all the parties and persons interested. If the amount of compensation to be made by such city is increased by the second report, the difference shall be paid by the comptroller or other chief financial officer of said city, to the parties entitled to the same, or shall be deposited with the chamberlain, or bank or trust company, as the court may direct, and if the amount is diminished the difference shall be refunded to the said city by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act except as to the particular property with which the said appeal is concerned. Such appeal shall be heard upon the evidence taken before said commissioners, and any affidavits as to irregularities, and three printed copies of such evidence shall be furnished by the said city to the party taking the appeal, within ten days after the appeal is perfected, and such appeal may be heard on the evidence so furnished, and may be taken without security thereon. (*This section added by chap. 752, Laws 1894.*)

§ 59. The supreme court in the judicial district in which said city is situated shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve or be incapable of serving, or be removed. And the said court may at any time remove any commissioner of appraisal who in its judgment shall be incapable of serving, or who shall for any reason in its judgment be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same. If in any particular it shall at any time

be found necessary to amend any pleading or proceeding or to supply any defect therein arising in the course of any special proceeding authorized by this act, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendment or correction. Wherever in this act reference is made to the general term of the supreme court, it shall be deemed to include the appellate division of the supreme court for the district in which said city is situated, whenever said general term shall be superseded thereby. (*Thus amended by chap. 519, Laws 1895.*)

§ 60. All property acquired under the provisions of this act shall be and shall be deemed to have been acquired for public uses and purposes, and for the purpose of affording increased facilities for rapid transit between points within the city acquiring such property. (*This section added by chap. 752, Laws 1894.*)

§ 61. The moneys necessary and sufficient to be paid for any property, acquired in any manner under the provisions of this act, together with all expenses necessarily incurred in surveying, locating, and acquiring title to such property, and for surveying and locating the same, and for preparing the necessary maps and plans in connection therewith, shall be raised and paid out of the proceeds of bonds issued and sold as provided by section thirty-seven of this act, and all such expenses so incurred in surveying, locating and acquiring title, and for preparing necessary maps and plans and also those incurred as provided in the next section shall be deemed a part of and included in the cost of constructing the road or roads, the construction of which rendered it necessary to acquire the property in the course of the acquisition of which such expenses may be incurred. (*Thus amended by chap. 519, Laws 1895.*)

§ 62. The commissioners of appraisal appointed in pursuance of this act shall receive as compensation the sum of ten dollars per day for each day actually employed. They may employ the necessary clerks, stenographers and surveyors. The counsel to the corporation or other principal legal adviser to said city shall, either in person or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners. The fees of the commissioners and the salaries and compensation of their employes, and all other necessary expenses in and about the said proceedings provided for by this act, and such allowance for counsel fees as may be made by order of the court, and all reasonable expenses incurred by said counsel to the corporation, or other principal legal adviser of said counsel designated by him for the proper presentation and defense of the interests of said city before said commissioners and in court, shall be paid by the comptroller or other chief financial officer of said city out of the

funds referred to in the last preceding section. But such fees and expenses shall not be paid until they have been taxed before a justice of the supreme court in the judicial district in which said city is situated upon five days' notice to the counsel to the corporation, or other chief legal adviser of said city. Such allowance shall, in no case, exceed the limits prescribed by section thirty-two hundred and fifty-three of the code of civil procedure. (*This section added by chap. 752, Laws 1894.*)

§ 63. In case it shall be determined by vote of the people as provided by sections twelve and thirteen of this act, to construct by and at the city's expense, then and in that event the road or roads so constructed shall be and remain the absolute property of the city so constructing it or them, and shall be and be deemed to be a part of the public streets and highways of said city, to be used and enjoyed by the public upon the payment of such fares and tolls, and subject to such reasonable rules and regulations as may be imposed and provided for by the board of rapid transit railroad commissioners in said city. (*This section added by chap. 752, Laws 1894.*)

CONSTRUCTION OF ACT.

§ 64. This act shall not be construed to repeal or in any manner affect chapter six hundred and six of the laws of eighteen hundred and seventy-five, entitled "An act to further provide for the construction and operation of a steam railway or railways in the counties of this state," or the acts amendatory thereof or supplementary thereto, or article five of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except so far as the said acts, or either of them, would, if this act had not been passed, authorize the appointment hereafter of any commissioners applied for as provided in section one of said act of eighteen hundred and seventy-five, or in section one hundred and twenty of said act of eighteen hundred and ninety, in any city or cities containing a population of over one million inhabitants, according to the last preceding national or state census, or authorize any commissioners already appointed pursuant to the provisions of such act or acts in any such city or cities, to fix, determine or locate any new route or routes, pursuant to the provisions of either of said acts. This act shall not be construed in any manner to affect the exercise or enjoyment at any time, and from time to time hereafter, of any right or rights heretofore acquired, exercised or enjoyed by any corporation heretofore duly incorporated and organized or deriving powers and rights under the laws of this state. This act shall not affect or impair the exercise or enjoyment

of any right or rights now possessed or heretofore acquired or heretofore authorized to be acquired, exercised or enjoyed by any street surface railroad corporation, except as herein otherwise expressly provided, and this act shall not be construed to repeal or in any manner affect chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or either of the several acts amendatory thereof or supplementary thereto. This act shall not be construed to repeal or in any manner affect chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except as hereinabove expressly provided, or except so far as the provisions of the same conflict with the provisions of this act. But nothing in this section contained shall prevent the board of rapid transit railroad commissioners from laying out a route for a railway and constructing a railway, and such board shall have the right to lay out such route and construct such railway, over, under, along or across any street in, along, under or over which there shall be any existing railway, provided that the routes so laid out by the said board and the railway so constructed by it shall so pass over or under or at the side of such existing railway as not to interfere with its operation. (*Thus amended by chap. 519, Laws 1895.*)

NO SURFACE ROADS UNDER ACT.

§ 65. No railroad shall be constructed or operated upon the surface of any street, avenue or highway in the city of New York under the provisions or authority of this act. (*The number of this section was changed from 35 to 65 by chap. 752, Laws 1894.*)

REPEAL

§ 66. All acts or parts of acts local or general inconsistent with this act are hereby repealed. (*The number of this section was changed from 36 to 66 by chap. 752, Laws 1894.*)

§ 67. This act shall take effect immediately. (*The number of this section was changed from 37 to 67 by chap. 752, Laws 1894.*)

§ 10. Whenever it is expressly provided in the act hereby amended that any act of the board of rapid transit railroad commissioners shall be done by the concurrent vote of four of the members of said board, the act hereby amended is further amended so as to provide in such cases that such vote shall be that of six of such members. (*Thus amended by chap. 752, Laws 1894.*)

§ 11. The commissioners of rapid transit heretofore appointed under the act hereby amended, or who became such commissioners by its

terms, upon the organization of the board which shall succeed them pursuant to said act as hereby amended, shall cease to be such commissioners and shall transfer and deliver to the board of rapid transit railroad commissioners, provided for by the act hereby amended, as so amended, all furniture, books, maps, records, plans and other papers and property of what kind soever appertaining or belonging to or in the custody of the board of which they were commissioners, or in their possession, or under their control as such commissioners, or held by them, or for which they are responsible in their official capacity. The expenses incurred by said commissioners for which an appropriation or appropriations shall have been made pursuant to section ten of the act hereby amended, shall be paid upon vouchers to be furnished by said commissioners and otherwise, as provided in said section. Said commissioners shall also be entitled to receive a reasonable compensation for the services which have been rendered by them, which may have been, or which shall be, determined on their application in the manner provided for in said section. The comptroller, or other chief financial officer of said city, is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of the receipt of taxes, and out of the proceeds of such bonds to pay said compensation so ascertained and determined, and the amount necessary to pay the principal and interest of said bonds shall be included in the tax levy of said city for the year next following the issue and sale of the same. (*Thus amended by chap. 752, Laws 1894.*)

§ 12. The said board of rapid transit railway commissioners shall cause the question, whether such railway or railways shall be constructed by the city and at the public expense, to be submitted to the vote of the qualified electors of the city within which such railway or railways is or are to be constructed, and to that end it shall be the duty of the said board, after completion of the detailed plans and specifications, as required by the act hereby amended, at least thirty days prior to the next general election, to file with the public officer or officers within the county in which such city is located, who may be charged with the duty of printing the ballots to be used at such election, a request that separate ballots be printed and supplied to such electors, one-half in number of which shall read: "For municipal construction of rapid transit road," and the other half in number of said ballots shall read, "Against municipal construction of rapid transit road." Upon such request being so filed, such ballots shall be printed and supplied to such electors at such general election, and separate ballot boxes shall be provided for the reception of the same in each election district within such city, and the provisions of chapter six hundred and eighty of the laws of eighteen hundred and ninety-two,

entitled "An act in relation to the elections constituting chapter six of the general laws," and any act or acts amendatory thereof or supplemental thereto shall apply thereto as far as the nature of the case may allow. No ballot which may be provided under this section shall be deemed invalid by reason of an error in dimensions, style of printing, or other formal defect, or through having been deposited in the wrong ballot box, but all of such ballots shall be canvassed and returned as if such formal defect had not existed, or as if they had been deposited in the box provided for the purpose. Upon the canvass of such votes by the board of county canvassers of the county in which such city is located, it shall be the duty of said board to file with the county clerk of said county a statement which shall declare the total number of votes cast in said city "for municipal construction of rapid transit road," and the total number so cast therein "against municipal construction of rapid transit road." And the said railway or railways shall be constructed by the said city and at the public expense, if it shall be found from such statements so filed that there is a majority of the votes so cast in favor of such municipal construction. (*Thus amended by chap. 752, Laws 1894.*)

§ 13. In case the majority of votes cast at such election shall be in favor of such municipal construction of said railway or railways, it shall be the duty of said board of rapid transit railway commissioners within thirty days after the official declaration of the said vote to proceed to construct the said railway or railways, and to make and let all contracts required for the performance of the work necessary to be done and performed in and about the construction thereof. All such contracts must, before execution, be approved as to form by the counsel to the corporation, or other chief legal adviser for said city. (*Thus amended by chap. 752, Laws 1894.*)

§ 14. This act shall take effect immediately; except that the building of said road, or the sale of the franchises as provided for in sections seven and thirty-four of the act hereby amended, as so amended, is postponed until, and made dependent upon, the determination of that question by the vote of the people as called for by sections twelve and thirteen of this act. (*Thus amended by chap. 752, Laws 1894.*)

CHAP. 102, LAWS OF 1892.

AN ACT to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities having over one million inhabitants."

§ 38a. The board of directors of any company incorporated for the purpose of constructing, maintaining or operating a bridge or bridges

connecting a city of more than one million inhabitants with any other city in this state, and by the act of incorporation of which authority shall have been conferred or intended to be conferred, to construct, maintain or operate, as a part of or in connection with its bridge, an approach or approaches thereto extending generally in an easterly and westerly direction, may determine in lieu of constructing such approach or approaches, to build, maintain and operate an elevated railway, the route of which shall be coincident with the route of such approach or approaches as defined in said act, and shall adopt a general plan for the construction thereof, and which shall show the general mode of operation, and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue, or other public place is to be encroached upon and the property abutting thereon affected, a copy of which plan shall be transmitted to the common council of the city in which the same is to be located. Such proceedings shall thereupon be had by such common council as are provided by section five of this act, as though such plans had been transmitted by the rapid transit commissioners as contemplated in said section. Provided, that where, in any such city the exclusive control of any street, route, highway or avenue, which is to be occupied by any railway or railways constructed under the provisions of this section is by law vested in any local authority other than the common council of such city, the approval of the aforesaid plans, and consent to the construction of a railway thereunder shall be given by such local authority in place of, and if required in addition to such approval and consent by such common council, and with like effect. Upon obtaining the approval and consent of the local authorities as in said section provided, the said board of directors shall take the necessary steps to obtain, if possible, the consent of the property owners along the line of the said route or routes, and all proceedings in respect of such consents or when such consents cannot be obtained shall be similar in all respects to the proceedings in said section provided. Any consent of the local authorities to construct or operate such railway shall be given only upon the condition that the rate of fare upon such elevated railway shall not exceed five cents for each passenger, and that payment of such fare shall entitle each passenger to and from such elevated railroad to free transit across the bridge or bridges with which it is intended to connect the same. When the consents of the local authorities and the property owners, or in lieu thereof, the authorization of the supreme court upon the report of the commissioners shall have been obtained, and the said company shall have accepted such condition it shall have all the powers of corporations formed under this act, it shall be authorized to build, construct, maintain

and operate such elevated railway or railways, but all provisions of this act, or of any act requiring the sale of the right, privilege and franchise of construction, maintaining and operating such railway or railways, or requiring a corporation or corporations to be organized for the purpose of acquiring such right, privilege and franchise, and all other provisions of this act or of any act inconsistent with this section, are hereby declared inapplicable to such elevated railway and to such company. The entire route of any elevated railway constructed under the provisions of this section shall not exceed three miles in length, nor shall any part of said railway, except at the termini thereof be less than sixteen feet above any street, avenue or public place, or less than fourteen feet above any existing elevated railway, which may be crossed, intervened or intersected thereby. The said railway may be located and constructed so as to cross any intersecting street, avenue, highway or place otherwise exempted, except that no public park shall be occupied or crossed thereby, the structure of such elevated railway shall be liable to taxation as provided by law for similar structures. (*Thus amended by changing the number of the section from 38 to 38a, by chap. 519, Laws 1895.*)

INTERSTATE COMMERCE ACT.

APPROVED FEBRUARY 4, 1887, AS AMENDED TO DATE.

CARRIERS AND TRANSPORTATION SUBJECT TO THE ACT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one state or territory of the United States, or the District of Columbia, to any other state or territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one state, and not shipped to or from a foreign country from or to any state or territory as aforesaid.

WHAT THE TERMS "RAILROAD" AND "TRANSPORTATION" INCLUDE.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

CHARGES MUST BE REASONABLE AND JUST.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection

therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

UNJUST DISCRIMINATION DEFINED AND FORBIDDEN.

§ 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

UNDUE OR UNREASONABLE PREFERENCE OR ADVANTAGE FORBIDDEN.

§ 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

FACILITIES FOR INTERCHANGE OF TRAFFIC.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

LONG AND SHORT HAUL PROVISION

§ 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the

aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, that upon application to the commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

POOLING OF FREIGHTS AND DIVISION OF EARNINGS FORBIDDEN.

§ 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

PRINTING AND POSTING OF SCHEDULES OF RATE, FARES AND CHARGES.

§ 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for trans-

portation, in such form that they shall be accessible to the public and can be conveniently inspected.

PRINTING AND POSTING OF SCHEDULES OF RATES ON FREIGHT CARRIED THROUGH A FOREIGN COUNTRY.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

TEN DAYS' PUBLIC NOTICE OF ADVANCE IN RATES MUST BE GIVEN; THREE DAYS' PUBLIC NOTICE OF REDUCTION IN RATES MUST BE GIVEN.

No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

PUBLISHED RATES NOT TO BE DEVIATED FROM.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares and charges as may at the time be in force.

COPIES OF SCHEDULES OF RATES, FARES AND CHARGES MUST BE FILED WITH COMMISSION; COPIES OF CONTRACTS, AGREEMENTS AND ARRANGEMENT MUST BE FILED WITH COMMISSION; JOINT TARIFFS MUST BE FILED WITH COMMISSION; POWER OF COMMISSION TO PRESCRIBE PUBLICITY.

Every common carrier subject to the provisions of this act shall file with the commission hereinafter provided for copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commission of all changes made in the same. Every such common carrier shall also file with said commission copies of all contracts, agreements or arrangements, with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said commission. Such joint rates, fares and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said commission, in so far as may, in the judgment of the commission, be deemed practicable; and said commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

TEN DAYS' NOTICE TO COMMISSION OF ADVANCE IN JOINT RATES, FARES AND CHARGES; THREE DAYS' NOTICE TO COMMISSION OF REDUCTION IN JOINT RATES, FARES AND CHARGES; POWER OF COMMISSION TO MAKE ADVANCES OR REDUCTIONS PUBLIC.

No advance shall be made in joint rates, fares and charges, shown upon joint tariffs, except after ten days' notice to the commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares or charges will go into effect. No reduction shall be made in joint rates, fares and charges, except after three days' notice, to be given to the commission as is above provided in the case of an advance of joint rates. The commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from

time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

JOINT RATES, FARES AND CHARGES NOT TO BE DEVIATED FROM.

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect or receive from any person or persons, a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare or charge is named thereon than is specified in the schedule filed with the commission in force at the time.

COMMISSION MAY PRESCRIBE FORMS OF SCHEDULES OF RATES, FARES AND CHARGES.

The commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

PENALTIES FOR NEGLIGENCE OR REFUSAL TO FILE OR PUBLISH RATES, FARES AND CHARGES.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States at the relation of the commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several states and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several states and territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

CONTINUOUS CARRIAGE OF FREIGHTS NOT TO BE UNNECESSARILY INTERRUPTED.

§ 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

LIABILITY OF COMMON CARRIERS FOR DAMAGES.

§ 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

PERSONS CLAIMING TO BE DAMAGED MAY COMPLAIN TO COMMISSION OR BRING SUIT IN UNITED STATES COURTS; OFFICERS, ETC., OF DEFENDANT MAY BE COMPELLED TO TESTIFY.

§ 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit

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to attend, appear, and testify in such case, and may tion of the books and papers of such corporation (any such suit; the claim that any such testimony or to criminate the person giving such evidence shall nness from testifying, but such evidence or testimon against such person on the trial of any criminal proc

PENALTIES FOR VIOLATIONS OF ACT BY C OFFICERS OR AGENTS; FINE AND IMP

§ 10. That any common carrier subject to the pr or, whenever such common carrier is a corporatio officer thereof, or any receiver, trustee, lessee, ager for or employed by such corporation, who, alone or poration, company, person or party, shall willfully do or shall willingly suffer or permit to be done, any ac this act prohibited or declared to be unlawful, or wl therein, or shall willfully omit or fail to do any act this act required to be done, or shall cause or willir any act, matter or thing so directed or required by thi to be so done, or shall aid or abet any such omission be guilty of any infraction of this act, or shall aid o be deemed guilty of a misdemeanor, and shall, upon c any district court of the United States within the ju such offense was committed, be subject to a fine of thousand dollars for each offense: *Provided*, that if t any person shall be convicted as aforesaid shall be a nation in rates, fares, or charges, for the transportati property, such person shall, in addition to the fine he for, be liable to imprisonment in the penitentiary exceeding two years, or both such fine and imprisonm of the court.

PENALTIES FOR FALSE BILLING, ETC., BY C OFFICERS OR AGENTS; FINE AND IMP

Any common carrier subject to the provisions of t such common carrier is a corporation, any officer or a person acting for or employed by such corporation, w billing, false classification, false weighing, or false reg any other devise or means, shall knowingly and wil willingly suffer or permit any person or persons to c for property at less than the regular rates then estab on the line of transportation of such common carri

guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

PENALTIES FOR FALSE BILLING, ETC., BY SHIPPERS AND OTHER PERSONS; FINE AND IMPRISONMENT.

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other device or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

PENALTIES FOR INDUCING COMMON CARRIERS TO DISCRIMINATE UNJUSTLY; FINE AND IMPRISONMENT; JOINT LIABILITY WITH CARRIER FOR DAMAGES.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common

carrier, be liable jointly or severally, in an action on the case to be brought by any consignor or consignee, discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom. (*Thus amended March 2, 1889.*)

**INTERSTATE COMMERCE COMMISSIONERS—HOW APPOINTED;
TERMS OF COMMISSIONERS.**

§ 11. That a commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. The commissioners first appointed under this act shall continue in office for the term of two, three, four, five and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the commissioner whom he shall succeed. Any commissioner may be removed by the President for inefficiency, neglect of duty or malfeasance in office. Not more than three of the commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said commissioners shall not engage in any other business, vocation or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission.

POWER AND DUTY OF COMMISSION TO INQUIRE INTO BUSINESS OF CARRIERS; COMMISSION REQUIRED TO EXECUTE AND ENFORCE THE PROVISIONS OF THIS ACT; POWER OF THE COMMISSION TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF BOOKS AND PAPERS.

§ 12. That the commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the commission to perform the duties and carry out the objects for which it was created; and the commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the commission, it shall be the duty of any district attorney of the United States to whom the commission may

apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the commission shall have power to require, by subpoena, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation.


Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena, the commission, or any party to a proceeding before the commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section. (*As amended March 2, 1889, and February 10, 1891.*)

PUNISHMENT FOR REFUSAL TO TESTIFY OR PRODUCE BOOKS AND PAPERS.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

COMMISSION MAY ORDER TESTIMONY TO BE TAKEN BY DEPOSITION.

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any com-



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missioner of a circuit, or any clerk of a district or
chancellor, justice, or judge of a supreme or sup
chief magistrate of a city, judge of a county court
pleas of any of the United States, or any notary
counsel or attorney to either of the parties, nor into
the proceeding or investigation. Reasonable notice
in writing by the party or his attorney proposing to
take the deposition shall be given to the opposite party or his attorney of record, as
to the opposite party or his attorney of record, as
which notice shall state the name of the witness and
the time and place of the taking of his deposition. Any person may be
and depose, and to produce documentary evidence
as witnesses may be compelled to appear and testi
mentary evidence before the commission as hereinb

Every person deposing as herein provided shall be sworn (or affirm; if he so request) to testify the whole truth and nothing but the truth, and he shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and if it has been reduced to writing, be subscribed by the

If a witness whose testimony may be desired to be taken is in a foreign country, the deposition may be taken by a person designated by the commission, or agreed upon by the parties, in stipulation in writing to be filed with the commission. The deposition must be promptly filed with the commission.

Witnesses whose depositions are taken pursuant to the provisions of this act by a magistrate or other officer taking the same, shall receive the same fees as are paid for like services in the courts of the United States.

**COMPLAINTS TO COMMISSION; HOW AND WHEN
REPARATION BY CARRIERS BEFORE INVESTIGATIONS BY THE COMMISSION.**

§ 13. That any person, firm, corporation or association, agricultural or manufacturing society, or any body or organization complaining of anything done or omitted by a common carrier subject to the provisions of this act, or the provisions thereof, may apply to said commission, which shall briefly state the facts; whereupon a statement of the facts made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint or to make good the same by writing within a reasonable time, to be specified by the commission; and such common carrier, within the time specified, shall file with the commission a statement of the facts, and if the injury alleged to have been done, said carrier

liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any state or territory at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

FINDINGS OF COMMISSION PRIMA FACIE EVIDENCE IN JUDICIAL PROCEEDINGS.

§ 14. That whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured, and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of. (*Thus amended March 2, 1889.*)

REPORTS AND DECISIONS; AUTHORIZED PUBLICATION TO BE COMPETENT EVIDENCE; PUBLICATION AND DISTRIBUTION OF ANNUAL REPORTS OF COMMISSION.

The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained, in all courts of the United States, and of the several states, without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports.

NOTICE TO COMMON CARRIERS TO CEASE FROM VIOLATION OF ACT; COMPLIANCE WITH NOTICE TO CEASE FROM VIOLATION OF ACT; REPARATION.

§ 15. That if in any case in which an investigation shall be made by said commission it shall be made to appear to the satisfaction of the com-

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mission, either by the testimony of witnesses or other thing has been done or omitted to be done in violation of this act, or of any law cognizable by said common carrier, or that any injury or damage has been sustained by parties complaining, or by other parties aggrieved in such violation, it shall be the duty of the commission to cause a copy of its report in respect thereto to be delivered to said common carrier, together with a notice to said common carrier from such violation, or to make reparation for the injury done, or both, within a reasonable time, to be specified in the report; and if, within the time specified, it shall be found by the commission that such common carrier has ceased to comply with the law, and has made reparation for the injury found in compliance with the report and notice of the commission, the satisfaction of the party complaining, a statement to be entered of record by the commission and the said common carrier thereupon be relieved from further liability or penalty for such violation of law.

PETITION TO UNITED STATES COURTS IN CASES OF DISOBEDIENCE TO ORDER OF COMMISSION; POWER OF UNITED STATES COURTS TO HEAR AND DETERMINE VIOLATIONS OF OBEDIENCE; WRITS OF INJUNCTION OR RESTRAINING ORDER AGAINST CARRIERS IN CASES OF DISOBEDIENCE FOR REFUSAL TO OBEY WRIT OR OTHER PROPER PROCESS; FINE; APPEAL TO SUPREME COURT OF UNITED STATES.

§ 16. That whenever any common carrier, as defined in the provisions of this act, shall violate, or refuse to perform any lawful order or requirement of the commission by this act, not founded upon a controversy requiring arbitration provided by the seventh amendment to the constitution of the United States, it shall be lawful for the commission or for any person interested in such order or requirement to apply by petition, to the circuit court of the United States for the judicial district in which the common carrier has its principal office, or in which the violation or disobedience or requirement shall happen, alleging such violation or disobedience or requirement, and the case may be; and the said court shall have power to grant such writ or other proper process, on such short notice to the common carrier as the court shall deem reasonable; and such notice may be served on the common carrier, his or its officers, agents or servants, or on the court shall direct; and said court shall proceed

mine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said commission shall be *prima facie* evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court to abide the ultimate decision of the court, or into the treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as

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shall be deemed reasonable. Whenever any such order is made or presented by the commission it shall be the duty of the court under the direction of the attorney-general of the State to execute the same; and the costs and expenses of such execution shall be paid out of the appropriation for the expenses of the State.

PETITION TO UNITED STATES COURTS IN CASES OF DISOBEDIENCE WHEN TRIAL BY JURY IS NECESSARY; TRIAL BY COURT; APPEALS TO THE SUPREME COURT OF UNITED STATES; COUNSEL OR ATTORNEY

If the matters involved in any such order or decision of the commission are founded upon a controversy regulated as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall refuse or neglect to obey or perform the same, after notice by the commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order to require to apply in a summary way by petition to the United States sitting as a court of law in the district in which the carrier complained of has its principal office, in which the violation or disobedience of such order shall have happened, alleging such violation or disobedience, and shall be; and said court shall by its order then fix a time for the trial of said cause, which shall not be less than thirty days from the time said order is made, and it shall be the duty of the marshal of the district in which said court sits to forthwith serve a copy of said petition, together with a copy of the order of said court, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within the time specified in the service of the same upon them as aforesaid. If the facts of fact of said commission as set forth in the petition constitute prima facie evidence of the matters therein stated, the court shall, if any party shall demand a jury or shall omit to waive a jury, shall, by its order, direct the marshal forthwith to try the cause; but if all the parties shall waive a jury, then the court shall try the issues in said cause without a jury, and judgment thereon. If the subject in dispute shall be of the value of one thousand dollars or more, either party may appeal to the Supreme Court of the United States under the same regulations as provided by law in respect to security for such appeal; and the appeal shall be taken within twenty days from the day of the entry of judgment of said Circuit Court. If the judgment of said

Court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session. (*Thus amended March 2, 1889.*)

**INTERSTATE COMMERCE COMMISSION—FORM OF PROCEDURE;
OFFICIAL SEAL.**

§ 17. That the commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commission shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said commission and be heard, in person or by attorney. Every vote and official act of the commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said commission shall have an official seal, which shall be judicially noticed. Either of the members of the commission may administer oaths and affirmations and sign subpoenas. (*Thus amended March 2, 1889.*)

**SALARIES OF COMMISSIONERS; SECRETARY—HOW AP-
POINTED; SALARY; OFFICES AND SUPPLIES; WITNESS
FEES.**

§ 18. That each commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The commission shall have authority to employ and fix the compensation of such other employees as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

EXPENSES OF THE COMMISSION—HOW P.

All of the expenses of the commission, including expenses for transportation incurred by the commission employees under their orders, in making any trip on official business in any other places than in the city of Washington, shall be allowed and paid on the presentation therefor, approved by the chairman of the commission. (*amended March 2, 1889.*)

PRINCIPAL OFFICE OF THE COMMISSION—COMMISSION.

§ 19. That the principal office of the commission shall be in the city of Washington, where its general session shall be held whenever the convenience of the public or the interest promoted or delay or expense prevented the commission may hold special sessions in any part of the United States, may, by one or more of the commissioners, perform all necessary to its duties, in any part of the United States on any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

CARRIERS SUBJECT TO THE ACT MUST RENDER ANNUAL REPORTS TO COMMISSION; COMMISSIONERS TO PREPARE METHODS OF KEEPING ACCOUNTS.

§ 20. That the commission is hereby authorized to require reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers all questions upon which the commission may have jurisdiction. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the market value of the same; the dividends paid, the surplus fund, the number of stockholders; the funded and floating debt, and the amount paid thereon; the cost and value of the carrier's property and equipments; the number of employees and the classification of the same, the amounts expended for improvements, and the character of such improvements; the receipts from each branch of business and the expenses of operating and other expenses; the balances of the accounts, and a complete exhibit of the financial operations of the carrier, including an annual balance sheet. Such reports shall also contain such information in relation to rates or

ing fares or freights, or agreements, arrangements or contracts with other common carriers, as the commission may require; and the said commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

ANNUAL REPORTS OF THE COMMISSION TO CONGRESS.

§ 21. That the commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to congress, and copies of which shall be distributed as are the other reports transmitted to congress. This report shall contain such information and data collected by the commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the commission may deem necessary; and the names and compensation of the persons employed by said commission. (*Thus amended March 2, 1889.*)

PERSONS AND PROPERTY THAT MAY BE CARRIED FREE OR AT REDUCED RATES; MILEAGE, EXCURSION, OR COMMUTATION PASSENGER TICKETS; PASSES AND FREE TRANSPORTATION TO OFFICERS AND EMPLOYEES OF RAILROAD COMPANIES; PENDING LITIGATION NOT AFFECTED BY ACT—JOINT INTERCHANGEABLE FIVE-THOUSAND-MILE TICKETS. AMOUNT OF FREE BAGGAGE—PUBLICATION OF RATES—SALE OF TICKETS—PENALTIES.

§ 22. That nothing in this act shall prevent the carriage, storage or handling of property free or at reduced rates for the United States, state or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers and Sailors' Orphan Homes, including those about to enter and those returning home after dis-

charge, under arrangements with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employes, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act. *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier, subject to the provisions of this act, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section six of this act; and all the provisions of said section six relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section six. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section ten of this act shall apply to any violation of the requirements of this proviso. (*As amended March 2, 1889, and February 8, 1895.*)

JURISDICTION OF UNITED STATES COURTS TO ISSUE WRITS OF PEREMPTORY MANDAMUS COMMANDING THE MOVEMENT OF INTERSTATE TRAFFIC OR THE FURNISHING OF CARS OR OTHER TRANSPORTATION FACILITIES

(*New section.*) That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of

the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement. (*Added March 2, 1889.*)

Public No. 41, approved February 4, 1887, as amended by Public No. 125, approved March 2, 1889, and Public No. 12, approved February 10, 1891. Public No. 38, approved February 8, 1895.

AN ACT in relation to testimony before the Interstate Commerce Commission, and in cases or proceedings under or connected with an act entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, and amendments thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and documents before the Interstate Commerce Commission, or in obedience to the subpoena of the commission, whether such subpoena be signed or issued by one or more commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the act of Congress, entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or of any amendment thereof on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing, concerning which he may testify, or produce evidence, documentary or otherwise, before said commission, or in obedience to its subpoena, or the subpoena of either of them, or in any such case or proceeding: *Provided*, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements and documents, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission shall be guilty of an offense, and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not more than one year or by both such fine and imprisonment. (*Public No. 54, approved February 11, 1893.*)

AUTOMATIC COUPLERS AND CONTINUOUS BRAKES.

AN ACT to promote the safety of employes and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes.

That from and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic after said date that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand-brake for that purpose.

§ 2. That on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars.

§ 3. That when any person, firm, company, or corporation engaged in interstate commerce by railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section one of this act, it may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently, in accordance with the first section of this act, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by this act.

§ 4. That from and after the first day of July, eighteen hundred and ninety-five, until otherwise ordered by the Interstate Commerce Commission, it shall be unlawful for any railroad company to use any car in interstate commerce that is not provided with secure grab irons or hand-holds in the ends and sides of each car for greater security to men in coupling and uncoupling cars.

§ 5. That within ninety days from the passage of this act the American Railway Association is authorized hereby to designate to the Interstate Commerce Commission the standard height of drawbars for freight cars, measured perpendicular from the level of the tops of the rails to the centers of the drawbars, for each of the several gauges of railroads in use in the United States, and shall fix a maximum variation from such standard height to be allowed between the drawbars of empty and loaded cars. Upon their determination being certified to the Interstate Commerce Commission, said commission shall at once give notice of the standard

INTERSTATE COMMERCE ACT.

fixed upon to all common carriers, owners, or lessee state commerce in the United States by such means may deem proper. But should said association find standard as above provided, it shall be the duty of the Interstate Commerce Commission to do so, before July first, eighteen hundred and ninety-four, and immediately to give notice thereof after July first, eighteen hundred and ninety-five, no car unloaded, shall be used in interstate traffic which does not meet the standard above provided for.

PENALTY FOR VIOLATION OF THE PROVISIONS

§ 6. That any such common carrier using any train, or hauling or permitting to be hauled on any line any car in violation of any of the provisions of this act shall be liable to a penalty of one hundred dollars for each such violation, to be recovered in a suit or suits to be brought by the district attorney in the district court of the United States in the locality where such violation shall have been committed. And it shall be the duty of such district attorney to bring suit upon duly verified information being lodged with him of such violation having occurred. And it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorney information of any such violations as may come to its knowledge. Nothing in this act contained shall apply to trains composed of passenger cars or to locomotives used in hauling such trains.

POWER OF INTERSTATE COMMERCE COMMISSION TO EXTEND TIME OF CARRIERS TO COMPLY WITH THE ACT

§ 7. That the Interstate Commerce Commission may, upon full hearing and for good cause extend the time within which any common carrier shall comply with the provisions of this act.

EMPLOYEES NOT DEEMED TO ASSUME RESPONSIBILITY FOR VIOLATION

§ 8. That any employee of any such common carrier injured by any locomotive, car, or train in use contrary to the provisions of this act shall not be deemed thereby to have assumed responsibility for the same, although continuing in the employment of such carrier at the time of the unlawful use of such locomotive, car, or train had he known of the same. (*Public No. 113, approved March 2,*

CHAP. 1027, LAWS OF 1895.**AN ACT in relation to the issue of mileage books by railroad corporations.**

Section 1. Every railroad corporation operating a railroad in this state, the line or lines of which are more than one hundred miles in length, and which is authorized by law to charge a maximum fare of more than two cents per mile, and not more than three cents per mile, and which does charge a maximum fare of more than two cents per mile, shall issue mileage books having either five hundred or one thousand coupons attached thereto, entitling the holder thereof, upon complying with the conditions hereof, to travel either five hundred or one thousand miles on the line or lines of such railroad, for which the corporation may charge a sum not to exceed two cents per mile. Such mileage books shall be kept for sale by such corporation at every ticket office of such corporation in an incorporated village or city, and any of such books shall be issued immediately upon application therefor. Upon presentation of such mileage book to a conductor on any train on any line of railroad owned or operated by said railroad corporation, the holder thereof, or any member of his family or firm, or any salesman of his firm, shall be entitled to travel for a number of miles equal to the number of coupons detached by such conductor. Such mileage book shall entitle the holder thereof to the same rights and privileges in respect to the transportation of person and property to which the highest class ticket issued by such corporation would entitle him. Such mileage books shall be good until all coupons attached thereto have been used. Any railroad corporation which shall refuse to issue a mileage book, as provided by this section, or in violation hereof, to accept such mileage book for transportation, shall forfeit fifty dollars, to be recovered by the party to whom such refusal is made; but no action can be maintained therefor unless commenced within one year after the cause of action accrues.

§ 2. This act shall take effect immediately. (*Thus amended by chap. 577, Laws of 1898.*)

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